



2nd edition

Bankruptcy

Is It the Right Solution to Your Debt Problems?



- Understand what happens if you file
- Keep your property
- Alternatives to filing



by Attorney Robin Leonard,
author of the bestselling book, *Money Troubles*

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edited by Stephen Elias and Ilona Bray





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Jonathan and Hilda are married with two young children. Hilda is a stay-at-home mother. They had always managed their money wisely until disaster struck: Jonathan's employer, a large corporation, merged with its competitor, and Jonathan was downsized out of a job. He was out of work for several months, during which time he and Hilda relied heavily on their credit cards. He found a job with a small start-up company for less pay and with fewer benefits than his prior job. Jonathan and Hilda tried hard to catch up on their bills but couldn't and, in fact, got much further behind. After a year, Jonathan was out of work again when the company went belly up. He found work again fairly quickly, but during the six weeks he was unemployed he and Hilda again charged necessities on their credit cards. With interest charges mounting, Jonathan and Hilda now owe over \$30,000 on five credit cards.



Long-time friends David and Charlotte first dreamed of opening a business together when they met in their graphic arts class in college. Two years ago, their dream came true when they started Dalotte Designs. They borrowed money from friends and relatives and took cash advances on their credit cards to purchase the equipment and inventory they needed to get started. Business was good for a while, but their dream turned into a nightmare when their primary client, the local university, decided to do all its design work in-house. Although David and Charlotte found new clients, none provided them with enough work to keep their business going. While Charlotte's relatives forgave her the debts she owed them and even gave her money to pay off her other debts, David wasn't so lucky. He owes friends, relatives, credit card companies, and half of the business's creditors over \$25,000.

When Carly divorced, she agreed to take less than 50% of the marital property in exchange for her husband, Miles, agreeing to pay most of the marital debts. Miles has since defaulted on the accounts, and the creditors are pursuing her. Carly has kept them away for several months, but a few are threatening to sue her and garnish her wages. Her credit is damaged, and the account balances keep rising because of finance charges and late fees. In total, the creditors and collection agencies claim she owes \$17,000 because of Miles's defaults.

* * *

Larry owes doctors and hospitals \$82,000 for the unsuccessful experimental treatment his now-deceased wife received while battling a rare illness. Neither Larry's nor his wife's health insurance would cover the procedure. Larry has tried mightily to negotiate the amount down to something he can afford, but the collection agencies now trying to collect the debts won't budge. In fact, they are making life miserable for Larry and his eight-year-old daughter.



Even if your situation isn't identical to Jonathan and Hilda's, David's, Carly's, or Larry's, you probably can see some similarities between their stories and your own. You have more debt than you can handle. Your debt mushroomed because of circumstances beyond your control—job loss, divorce, business failure, illness, accident, death, or unreasonable creditors. You feel overwhelmed and are considering your options. Maybe a friend, relative, or even a lawyer suggested bankruptcy, describing it as the best thing in the world for you. Someone else may have said the opposite—that bankruptcy is a huge mistake and will ruin your life. Right now, you're filled with emotional turmoil—confusion, fear, guilt, and anguish. You don't know what bankruptcy is, whether or not it can help you, or what it would mean for your future.

Relax. You're not alone. During each of the first few years of the new millennium, over 1.5 million Americans have filed for bankruptcy. So have thousands of companies. Bankruptcy has become a necessary and pervasive part of our economic system.

And bankruptcy may be right for you. For a filing fee of \$194–\$209 and the cost of a self-help law book, or the \$150 fee charged by most nonlawyer bankruptcy petition typists, you may be able to:

- wipe out all or most of your debts in a Chapter 7 bankruptcy, or
- use Chapter 13 bankruptcy to stop creditor collection actions such as foreclosures, wage garnishments, and bank account levies over a three- to five-year period, while you repay some or all of your debts.

If you're deep in debt, bankruptcy may seem like a magic wand. It often is.

But bankruptcy also has its drawbacks. Before you decide to file, you need to understand the different types of bankruptcies, what bankruptcy can and cannot do for you, and the long-term effect of bankruptcy. This book will explain all this.



Explore your options. You should determine whether there are ways of dealing with your creditors that might work just as well for you as bankruptcy. For instance, a simple letter may stop your creditors from harassing you, and a court judgment in the hands of a creditor might have no effect on your life, depending on your property and source of income. See Chapter 10 for a brief discussion of nonbankruptcy options and resources.

There is no mathematical formula to use to figure out if bankruptcy is right for you. For many, the need for and advantage of bankruptcy will be obvious. Others will benefit from closely examining their property, debts, income, recent financial transactions, and how hard their creditors are trying to collect what they are due.

The rest of this chapter describes the two main kinds of bankruptcies available to consumers. Then we walk you through the main issues you will face when deciding whether to file:

- Are you eligible to file?
- Which debts will and won't be cancelled?
- What will happen to your home, car, and other items of property?
- How will your credit cards be affected?
- How will bankruptcy affect your personal life?

And finally, we introduce you to some proposed changes in bankruptcy law that may seriously affect your decision on whether to file.

At the back of the book is a checklist entitled "Should I File for Bankruptcy?" As you finish each chapter, you'll be reminded to turn to the checklist to answer the questions there that were raised by that chapter's discussion. Once you've read the entire book and have completed the checklist, you will have before you a summary of the major issues to consider when deciding whether or not to file.

**LOOK FOR THESE ICONS,
WHICH ALERT YOU TO CERTAIN KINDS OF INFORMATION**



The “fast track” arrow alerts you that you can skip some material that isn’t relevant to your case.



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This icon refers you to helpful books or other resources.



This icon alerts you to a practical tip or good idea.



This icon lets you know when it’s time to answer some questions on the checklist entitled “Should I File for Bankruptcy?” in Appendix A at the end of the book.

A. Types of Bankruptcies

There are two kinds of bankruptcy: “liquidation” and “reorganization.” In a liquidation bankruptcy, your nonessential property items may be sold to pay down your debt, and most or all of your debts may be wiped out. The liquidation bankruptcy is called Chapter 7 bankruptcy, and it can be filed by individuals (a “consumer” Chapter 7 bankruptcy) or businesses (a “business” Chapter 7 bankruptcy). A Chapter 7 bankruptcy typically lasts three to six months.

In a reorganization bankruptcy, you devote part of your income to pay down your debt over time. There are three different kinds of reorganization bankruptcies:

- Chapter 13 bankruptcies for individuals (usually last three to five years)
- Chapter 11 bankruptcies for individuals with very high debts and for businesses (may last a few months or several years), and
- Chapter 12 bankruptcies for individuals when the bulk of their debts come from the operation of a family farm (usually last three to five years).

In this book we focus on consumer Chapter 7 bankruptcies and Chapter 13 bankruptcies.



For additional discussion of Chapter 11 and Chapter 12 bankruptcies, see Chapter 10, Sections D and E, of this book.



Lawyers and judges use the words “liquidation” and “reorganization” bankruptcy, but you don’t have to. To distinguish between a consumer Chapter 7 bankruptcy and a Chapter 13 bankruptcy, use language that makes sense to you—such as “a bankruptcy where many, if not all, of my debts are cancelled outright in a short three- to six-month process” (Chapter 7), or “a bankruptcy where I’ll be using my income to make payments on my debts over the next several years” (Chapter 13).

1. Chapter 7 Bankruptcy

In a Chapter 7 bankruptcy, you get to cancel, or “discharge,” certain types of debts. In return, however, you must be willing to give up certain types of property, to be sold for the benefit of your creditors. In fact, most Chapter 7 filers get to keep most or all of the property they need to get on with their lives—because the law considers it necessary for a fresh start.



Chapters 4 and 5 explain what property you are at risk of losing in a Chapter 7 case.

The typical Chapter 7 bankruptcy case takes between three and six months from filing to discharge. It costs \$209 in filing and administrative fees, and it commonly requires one physical appearance at what's called a "creditors' meeting."

a. How a Chapter 7 Case Begins

To begin a Chapter 7 bankruptcy case, you would complete a packet of forms (shown in Chapter 8, Section A) and file them with the bankruptcy court in your area. The forms ask you to describe:

- your property (type, location, value)
- your current income and its sources
- your current monthly living expenses
- your debts
- which of your items of property you're claiming a legal right to keep through the bankruptcy (called "exempt" property), and
- certain economic transactions you engaged in during varying periods of time preceding your bankruptcy filing.



This book doesn't cover actual preparation and submission of bankruptcy paperwork. For this type of information, see one of the resources listed at the end of this chapter. Also, before you file Chapter 7 bankruptcy, you must meet a few eligibility requirements. These are explained in Chapter 2.

b. How a Chapter 7 Case May End

If you file for Chapter 7 bankruptcy, the court will discharge most of your bankruptcy debts at the end of your case. This means that you will no longer owe money to those creditors. However, certain types of debts will survive the bankruptcy intact, meaning you will still owe those creditors the money you owed when you filed your bankruptcy papers—plus the interest that accrued during your case. (For more on these "nondischargeable" debts, see Chapter 3, Section A.) And finally, you will have to continue making payments on debts owed on property that you wish to hang on to, such as your home or car.

In rare situations, a judge may ask you to come to court at the end of your case for a group lecture that explains your bankruptcy discharge

and cautions you against getting back into debt. More likely, however, you will just receive a court paper stating that you have received a discharge. Unfortunately, that paper doesn't specify which of your debts were discharged and which were not. The front of the paper simply states that all debts that qualified for discharge have been discharged, while the back of the paper provides a brief general summary of which debts are and are not discharged. It's up to you, with the help of this or another self-help law book, to identify which of your specific debts fall within each category.

If you file for bankruptcy and then change your mind, you can ask the court to dismiss your case. As a general rule, a court will dismiss a Chapter 7 bankruptcy, so long as the dismissal won't harm your creditors. Usually, you can file again if you want to, although in some circumstances you would have to wait 180 days and pay a new filing fee. Optionally, instead of dismissing your Chapter 7 case, you can convert it to another Chapter, typically Chapter 13 for consumers.

2. Chapter 13 Bankruptcy

Chapter 13 bankruptcy, sometimes called the wage earner's plan, is quite different from Chapter 7 bankruptcy. In a Chapter 13 bankruptcy, you use your income to pay some or all of what you owe to your creditors over time. Most Chapter 13 bankruptcies last three years. Some last longer—a court can approve a case as long as five years. A few are shorter—if you pay off 100% of your debts in less than three years, your case will be over sooner.

Chapter 13 bankruptcy isn't for everyone. If your income is too low or irregular, you may not be eligible. To file for Chapter 13, bankruptcy, you must have a steady income.

If your total debt burden is too high, you are also ineligible. Your secured debts cannot exceed \$871,550 and your unsecured debts cannot be more than \$290,525. A "secured debt" is one that gives a creditor the right to take a specific item of property (such as your house or car) if you don't pay the debt. An "unsecured debt" doesn't give the creditor this right. Common examples of unsecured debts are credit card and medical bills.

a. How a Chapter 13 Case Begins

To begin a Chapter 13 bankruptcy, you would fill out a packet of forms—mostly the same forms as you would use in a Chapter 7 bankruptcy—listing your income, property, expenses, and debts. You would then file these forms with a nearby bankruptcy court. At the time you file these papers you must also file a workable plan proposing how you plan to handle your debts over the plan period.

Currently, it costs \$194 to file for Chapter 13 bankruptcy. See the end of this chapter for additional resources describing Chapter 13 bankruptcy filing procedures.

b. Your Obligations Under the Chapter 13 Plan

Under the Chapter 13 plan, you make payments, usually monthly, to the bankruptcy trustee, who is an official appointed by the bankruptcy court to oversee your case. (Section C, below, discusses the role played by the trustee.) The trustee in turn pays your creditors and collects a statutory commission based on the amounts paid out under your plan.

Some creditors are entitled to receive 100% of what you owe them, while others may receive a much smaller percentage. Typically, Chapter 13 bankruptcy plans provide that:

Administrative claims will be paid 100%. These include your filing fee, the trustee's commission, and attorney's fees, if you hire an attorney for help with your Chapter 13 bankruptcy.

Priority debts will be paid 100%. These include back alimony and child support; most tax debts (including state and federal income taxes); up to \$4,650 in wages, salaries, or commissions you owe to anyone who worked for you within the 90 days before you filed for bankruptcy; and contributions you owe to an employee benefit fund.

Mortgage defaults will be paid 100% if you want to keep your house.

Other secured debt defaults will usually be paid 100% if you want to keep the property. Missed car payments fall into this category. Once the default amount is paid off, you may be able to use a special Chapter 13 option (called a “cramdown”) to keep the property, by paying the rest of what the property is worth rather than what you still owe on the contract.

Unsecured debts will be paid anywhere from 0% to 100% of what you owe. The exact amount depends on all of the following:

- the total value of your nonexempt property
- the amount of disposable income you have each month to put toward your debts
- how long your plan lasts, and
- the attitude of your local bankruptcy court.

Some courts have no problem approving a Chapter 13 plan that proposes to repay very little or nothing to unsecured creditors. Other courts refuse to approve a plan that proposes paying anything less than 50% to 75% of what's owed.

c. How a Chapter 13 Case May End

If you complete your full three- or five-year repayment plan, the remaining unpaid balance on any of your debts that qualify for discharge are wiped out at the end. If any balance remains on a debt that doesn't qualify for discharge, you will continue to owe it. (The debts that qualify for discharge are explained in Chapter 3.)

You can't enjoy any of the Chapter 13 debt-reduction benefits unless and until the plan is completed—either because you make all your payments or because the court grants you an early discharge. If you don't complete your plan, your remaining debts are not discharged. For this reason, if you can't make some payments under your plan, you'll want to ask the bankruptcy court for permission to modify it. As long as it's clear that you're acting in good faith, the court is likely to approve a request for a modification. If you can't complete the plan because of circumstances beyond your control, the court might even let you end your case early and discharge the remainder of your debts on the basis of hardship.

If the bankruptcy court won't let you modify your plan or give you a hardship discharge, you can:

- convert your Chapter 13 bankruptcy to a Chapter 7 bankruptcy, unless you received a Chapter 7 discharge within the previous six years (this is explained in Chapter 2), or
- dismiss your Chapter 13 case. This means you'll owe your creditors the balances on your debts from before you filed your Chapter 13

case, less the payments you made, plus the interest that accrued while your Chapter 13 case was open.

As you may have concluded, Chapter 13 bankruptcy requires discipline. For the entire length of your case, you will have to live strictly within your means. The Chapter 13 trustee will not allow you to spend money on anything deemed nonessential. Not surprisingly, only about 35% of Chapter 13 plans are successfully completed. Many Chapter 13 filers drop out early in the process, without ever submitting a feasible repayment plan to the court. Nevertheless, for the 35% of those who do make it to the end, the rewards often include an earlier and easier path to restoring good credit.

3. Reasons to Choose One Type of Bankruptcy Over the Other

In most parts of the country, the majority of people who file for bankruptcy file a Chapter 7 case. In a few places, however, Chapter 13 filings equal or far exceed the Chapter 7 filings. This is true in parts of Alabama, Arkansas, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Utah.

Neither of these trends is surprising. Most people choose Chapter 7 bankruptcy because it's fast, effective, easy to file, and doesn't require payments over time. In the typical situation, a case is opened and closed within three to six months, and the person filing emerges debt-free except for a mortgage, car payments, and certain types of debts that survive bankruptcy, such as student loans, recent taxes, and back child support. (See Chapter 3 for more on these "nondischargeable" debts.) In addition, few individuals lose any property in Chapter 7 bankruptcy. As we've mentioned, bankruptcy lets you keep most necessities. (See Chapters 4 and 5 for what property you can keep.)

On the other hand, many individuals in the South and in Utah—recognized as highly religious parts of the country—have a moral objection to not paying their debts, at least to the extent possible. In those places, Chapter 13 filings are much higher than average.



Watch out for this scary trend. The U.S. Trustee, which is the Department of Justice official legally in charge of the various court-appointed trustees, has recently been requiring the trustees to force Chapter 7 debtors into Chapter 13 if it appears that they have enough income to pay off all their priority debts over a three-year period and still pay at least a portion of their unsecured debts.

This policy is based on a bankruptcy code provision (11 U.S.C. § 707) that allows a Chapter 7 case to be dismissed for “substantial abuse.” The U.S. Trustee has decided that it’s substantial abuse for someone to file a Chapter 7 bankruptcy when he or she could file a Chapter 13 bankruptcy instead. If this policy survives court challenges, we can expect to see an increase in Chapter 13 filings. (See “Oversight by the U.S. Trustee’s Office,” in Section C, below, for more explanation of what the U.S. Trustee does.)

One major problem in choosing a Chapter 13 bankruptcy over a Chapter 7 bankruptcy is that you usually need to complete your payment plan to get any benefit from the Chapter 13 process. (The court will, in some circumstances, let you off the hook early for hardship reasons.) If your Chapter 13 fails—and, as we’ve pointed out, most do—money put toward your unsecured debts under the plan will have been paid for naught if you convert to Chapter 7 bankruptcy and discharge the debts in their entirety (as is often the case). However, if you decide to handle, outside of bankruptcy, what debts remain after your Chapter 13 case, you may not have as much debt to repay as when you originally filed your Chapter 13 case.

Moral and bureaucratic issues aside, there are many reasons why people who qualify for both types of bankruptcy decide to choose Chapter 13 bankruptcy over Chapter 7 bankruptcy. (Eligibility is covered in Chapter 2.) Generally, you are probably a good candidate for Chapter 13 bankruptcy if you qualify economically and are in any of the following situations:

- You are behind on your mortgage or car loan, and want to make up the missed payments over time and reinstate the original agreement. You generally cannot do this in Chapter 7 bankruptcy.

- Your car is reliable and you want to keep it, but it's worth far less than you owe. You want to take advantage of Chapter 13 bankruptcy's option of keeping the car by just paying its actual value in installments as part of your Chapter 13 plan.
- You have a tax obligation, student loan, or other debt that cannot be discharged in Chapter 7 bankruptcy, but can be paid off over time in a Chapter 13 plan. (Nondischargeable debts are discussed in Chapter 3.)
- You have a sincere desire to repay your debts, but you need the protection of the bankruptcy court to do so.

B. Filing for Bankruptcy Stops Your Creditors

One of the most powerful features of bankruptcy is that it stops most debt collectors dead in their tracks and keeps them at bay for the rest of your case. Once you file, all collection activity must go through the bankruptcy court—and no creditor can take any further action against you directly. Below, we describe how it works.



You don't need bankruptcy to stop your creditors from harassing you.

Many people start thinking about bankruptcy when their creditors start phoning their homes and/or places of employment. Federal law prohibits this activity, once the creditor learns that you don't want to be called. While just telling the creditor to stop usually works, a written letter is sometimes necessary. (See Chapter 10 for a sample letter.)

1. The Automatic Stay

When you file for any kind of bankruptcy, something called the “automatic stay” goes into effect. The automatic stay prohibits virtually all creditors from taking any action directed at collecting the debts you owe them unless the bankruptcy court says otherwise. In general, creditors cannot:

- try to collect the debt outside the bankruptcy proceeding, such as sending you letters or calling you
- file a lawsuit or proceed with a pending lawsuit against you

- terminate public benefits, such as welfare or food stamps
- record liens against your property, or
- seize your property or income, such as money in a bank account or your paycheck.

If a creditor tries to collect a debt in violation of the automatic stay, you can ask the bankruptcy court to hold the creditor in contempt of court and to fine the creditor.

2. Exceptions to the Automatic Stay

There are some notable exceptions to the automatic stay. The following proceedings can continue regardless of the stay:

- **A criminal proceeding.** If a case against you can be broken down into criminal and debt components, the criminal component will be allowed to continue. For example, if you were convicted of writing a bad check and have been sentenced to community service and ordered to pay a fine, your obligation to do community service will not be stopped by the automatic stay.
- **Child support and alimony.** A lawsuit that seeks to establish your paternity of a child or to establish or modify your obligation to pay child support or alimony can continue. Back child support and alimony can also be collected during a Chapter 7 bankruptcy, but only from the property that is not part of your bankruptcy estate. (See Chapter 5 for more on what's in your bankruptcy estate.) If you owe back child support and want some time to get current without having your wages garnished, Chapter 13 is your kind of bankruptcy.
- **Tax stuff.** The IRS can continue action on a tax audit, the issuance of a tax deficiency notice, a demand for a tax return, the issuance of a tax assessment, or the demand for payment of an assessment. The automatic stay does, however, stop the IRS from issuing a lien or seizing any of your property or income.
- **Utilities.** The companies providing you with utilities (such as gas, heating oil, electricity, telephone, and water) may not discontinue service because you file for bankruptcy. However, they can shut off your service 20 days after you file if you don't provide them with a deposit or other means to assure future payment.

3. Lifting the Automatic Stay

The bankruptcy court can lift the automatic stay for a particular creditor if that creditor convinces the court that the stay isn't serving its intended purpose: to freeze your assets and debts so that the court can deal with them. This is also called "relief from stay," and it is granted at a "relief from stay" hearing. (For more on relief from stay, see Chapter 8, Sections B and C.) The stay can be lifted within a week or two, though more commonly it's a few months. Here is how the automatic stay affects some common emergencies:

- **Utility disconnection.** If you're behind on a utility bill and the company is threatening to disconnect your water, electric, gas, or telephone service, the automatic stay will prevent the disconnection for at least 20 days. After that, your services can be disconnected unless you provide an adequate deposit or other assurance that future services will be paid for. You can wipe out your past due debts for utility service in bankruptcy. However, the amount of debt on a utility bill by itself rarely justifies a bankruptcy filing.
- **Foreclosure.** If your home mortgage is being foreclosed on, the automatic stay temporarily stops the proceedings, but the creditor will often be able to proceed with the foreclosure sooner or later. (See Chapter 4 for more information on foreclosure.)
- **Eviction.** If you are being evicted from your home, the automatic stay can usually buy you a few days or a few weeks. But if the landlord asks the court to lift the stay and let the eviction proceed—which landlords frequently do—the court will probably agree. Courts tend to base this decision on a belief that eviction won't affect the ability of the bankruptcy process to appropriately deal with your debts and property. Despite the attractiveness of even a temporary delay, it is seldom a good idea to file for bankruptcy solely because you're being evicted. However, if a bankruptcy filing truly would make the difference between having enough time to find decent shelter and becoming homeless, it might be a very good idea indeed.
- **Enforcement of child support or alimony.** If you owe child support or alimony, Chapter 7 bankruptcy will not interrupt your obligation to make current payments. And, as mentioned above, the

automatic stay does not stop proceedings to establish, modify, or collect back support from your income or from property that is not part of your bankruptcy estate. (See Chapter 5 for more on what is and is not considered property of the estate.)

- **Loss of driver's license because of liability for damages.** In some states, your driver's license may be suspended until you pay a court judgment for damages resulting from an automobile accident. The automatic stay can prevent this suspension if it hasn't already occurred. If you are absolutely dependent on your ability to legally drive for your livelihood and family support, keeping your driver's license can be a powerful reason to file for bankruptcy.

C. The Bankruptcy Trustee

Until your Chapter 7 or Chapter 13 bankruptcy case ends, your financial problems are in the hands of the bankruptcy court. With few exceptions, the court takes legal control of your property and debts as of the date you file. If, without the court's consent, you sell or give away any property or pay off any debts while your case is open, you risk having your case dismissed. The court exercises its control through a court-appointed person called a bankruptcy trustee. In addition to making sure that your case proceeds in accord with the rules governing bankruptcy, the trustee's primary duty is to see that your unsecured creditors are paid as much as possible on the debts you owe them.



OVERSIGHT BY THE U.S. TRUSTEE'S OFFICE

The U.S. Trustee's Office is a part of the United States Department of Justice. It manages the bankruptcy trustees that actually handle cases in the bankruptcy court. The U.S. Trustee's Office tries to make sure the bankruptcy laws are being followed and that cases of fraud and other crimes are appropriately handled. There are 21 regional U.S. Trustee's offices. Only the bankruptcy courts in Alabama and North Carolina do not come within the U.S. Trustee's jurisdiction.

As a general rule, you will have no contact with a U.S. Trustee unless you file a Chapter 7 bankruptcy and show enough income to easily fund a Chapter 13 case, or unless your papers or testimony give rise to suspicions that you are engaged in a criminal enterprise or deceitful activity. Unless we specify differently, all references in this book to a trustee mean the trustee who will actually be handling your case in the bankruptcy court, not the U.S. Trustee.

The trustee may be a local bankruptcy attorney, or someone very knowledgeable about Chapter 7 or Chapter 13 bankruptcy generally, and the local court's rules and procedures specifically. In some courts, trustees are not attorneys but are business people with specialized knowledge of finance or personal bankruptcy.

Just a few days after you file your bankruptcy papers, you'll get a Notice of Appointment of Trustee from the court, giving the name, business address, and business phone number of the trustee. The letter may also include a list of any financial documents the trustee wants copies of, such as bank statements, canceled checks, and tax returns, as well as the date by which the trustee wants them. (These documents are usually required only in Chapter 13 cases.)

1. Chapter 7 Trustee

In a Chapter 7 bankruptcy, the trustee is mostly interested in what you own and what property you claim as exempt. The more assets the trustee recovers for your unsecured creditors, the more the trustee gets paid. The trustee may receive 25% of the first \$5,000, 10% of any amount between \$5,000 and \$50,000, and 5% of any additional money up to \$1,000,000.

The trustee is also required to assess your bankruptcy papers for accuracy and for signs of possible fraud or abuse of the bankruptcy system. In some parts of the country, the trustee may move to dismiss your case for “abuse” (or allow you to convert it to Chapter 13) if your income and expenses show the possibility that you could pay a significant portion of your unsecured debts.

If your papers indicate that all your property is exempt, your case will initially be considered a “no-asset” case—in other words, on the face of it you’ve got nothing that can be sold to pay creditors. This means that the trustee’s interest in your case will be diminished unless something in your papers indicates the possibility that you are hiding or mischaracterizing assets. In that event the trustee will investigate further, both during the creditors’ meeting (see below) and, if necessary, in a formal deposition. Again, the trustee is motivated by the fact that he or she gets a commission on any property that he or she can seize and sell to pay your unsecured creditors. If there is no such property, then there is no commission.

The first time you are likely to encounter the trustee in a Chapter 7 case is when you appear at your creditors’ meeting, which you must attend if you don’t want your bankruptcy dismissed. (We provide more detail about the creditors’ meeting in Section D, below.) At this meeting, the trustee may question you about information in your papers that might turn up assets. For instance, if you claim that a family heirloom is worth \$500, and the laws of your state exempt heirlooms worth \$500 or less, the trustee may ask you how you arrived at the \$500 figure.

Typically, if all your assets appear to be exempt, you will hear nothing further from the trustee. However, if your bankruptcy estate contains (or appears to contain) nonexempt assets, the trustee may reschedule your creditors’ meeting for another date and ask you to submit appropriate documentation in the meantime. (In legalese, this rescheduling is called a “continuance.”) More rarely, the trustee may hire an attorney to pursue nonexempt assets you appear to own or even refer your case to the U.S. Trustee’s office for further action, if it appears you have engaged in dishonest activity. (See “Oversight by the U.S. Trustee’s Office,” above, for more explanation.)

If your bankruptcy estate contains nonexempt assets for the trustee to seize and sell, you will be expected to cooperate in the delivery of these assets to the trustee for disposition. You may also buy the assets back from the trustee at a negotiated price or substitute exempt assets for the nonexempt assets. For instance, assume you own a nonexempt canoe worth \$2,000, and you want to hold on to it, perhaps because you inherited it from a parent. If you have a second exempt car that will fetch \$2,000 in a quick sale and can do without the car, the trustee will happily take the car in place of the canoe.

If you have nonexempt property but it isn't worth very much, or it would be cumbersome for the trustee to sell, the trustee can—and often will—“abandon” the property—which means you get to keep it. For example, no matter how much your used furniture may be worth in theory, many trustees won't bother with it. Arranging to sell used furniture is expensive and often won't produce enough profit to make anybody happy.

2. Chapter 13 Trustee

In a Chapter 13 bankruptcy, the trustee's primary role is to receive your payments and distribute them to your creditors in the manner required by law. As mentioned, some of your creditors may get paid 100%, while others may receive a small fraction of what you owe them. The trustee gets paid by keeping a percentage of the payments you make—anywhere from 3% to 10%.

Many Chapter 13 trustees play a fairly active role in the cases they administer. This is especially true in small suburban or rural judicial districts, or in districts with many Chapter 13 bankruptcy cases. For example, a trustee may:

- give you financial advice, such as helping you create a realistic budget (the trustee cannot, however, give you legal advice)
- actively participate in helping you modify your plan, if necessary
- give you a temporary reprieve or take other steps to help you get back on track if you miss a payment or two, or
- participate at any hearing on the value of an item of property, possibly even hiring an appraiser.

Despite the trustee's intense interest in the details of your finances, your financial relationship with the trustee is not as stifling as it may sound. In most situations, you keep complete control over money and property you acquire after filing—as long as you make the payments called for under your repayment plan, and you make all regular payments on your secured debts.

D. The Meeting of Creditors

A key event in the early phases of any bankruptcy case is what's called the meeting of creditors. This is a coming together of the debtor, all the creditors interested enough to show up, and the trustee, who presides. The creditors and trustee are allowed to ask you questions about issues in your case.

In the typical Chapter 7 case, you won't even see a bankruptcy judge, so your big appearance will be at this creditors' meeting. In the typical Chapter 13 case, however, you will appear once at the creditors' meeting and at least once before the bankruptcy judge, to have your Chapter 13 plan confirmed. If your plan, as submitted, needs changes or you run into trouble while trying to complete your plan (for instance, you get laid off), one or more additional appearances in court will be required. In this section we discuss the creditors' meeting in more detail. (For more on court appearances before the bankruptcy judge, see Chapter 8, Sections B and C.)

1. Chapter 7 Meeting of Creditors

Shortly after you file your bankruptcy petition, the court will schedule the meeting of creditors, in keeping with Section 341 of the U.S. Bankruptcy Code. (You'll often hear these referred to as "341 meetings.") The date of this meeting is usually about a month after you file. You, as well as your creditors, will receive official notice of the meeting from the court.

You (and your spouse if you have filed for bankruptcy jointly) are required to attend and bring two forms of ID—a picture ID and proof of your Social Security number. (If your meeting is held in a federal building, be prepared to show your picture ID at the building's entrance; otherwise, you won't get anywhere near the meeting of creditors.)

Many other people who have filed for bankruptcy around the same time you did will have their creditors' meeting scheduled for the same time as yours. Chapter 7 trustees typically handle about ten to 25 cases an hour. You can usually figure out when your individual case will be considered based on its order on the list of cases posted outside the meeting room. You can use the wait time to observe how the meetings are being conducted. Also, while you are waiting, many trustees will require you to read a bankruptcy fact sheet prepared by the U.S. Trustee, and to affirm on the record that you have read and understood it.

Most likely, your particular "moment of truth" will be brief. Typically, an appearance in a no-asset case lasts less than five minutes. Despite the meeting's name, creditors rarely show up, so the trustee is usually the only one asking the questions. After swearing you in and checking your identity, the trustee will ask you to affirm your understanding of the bankruptcy fact sheet and then ask about the information in your papers. The trustee may simply ask you whether all the information in your papers is 100% correct and end the meeting if you say, "Yes." However, depending on your paperwork, the trustee might inquire further about such matters as:

- anticipated tax refunds
- recent large payments to creditors or relatives
- methods you used to arrive at the value of big-ticket property items you are claiming as exempt, such as a house or car
- inconsistencies in information you provided that might indicate you are being less than honest, and
- if you used a nonlawyer bankruptcy petition preparer, how you acquired the information necessary to make certain choices, such as which property is exempt. (Your answers here won't affect your bankruptcy, but may result in action by the trustee against an unqualified or irresponsible preparer. See Chapter 8, Section D, for more on bankruptcy petition preparers.)

If your papers give any indication that you own valuable nonexempt property, the trustee may question you quite vigorously. You may also be questioned about why you claimed certain property as exempt.

When the trustee is finished, any creditors who showed up are given a chance to question you. They may seek clarification of anything unclear on your forms or ask you to agree to pay a debt after your bankruptcy case ends. (This is called “reaffirming a debt.”)

A creditor might also ask for an explanation if information in your bankruptcy papers differs from what was on your credit application. If you lied about your income, debts, or something else important on a credit application, the creditor may claim that you committed fraud and that you should therefore not be allowed to discharge your debt to that creditor.

When the trustee and creditors (if any) are finished asking questions, your meeting is closed and you are dismissed. As mentioned, if yours is the typical bankruptcy case, the next official communication about your case you will receive is a discharge notice from the court. (See Section A1, above.)

2. Chapter 13 Meeting of Creditors

Shortly after you file your Chapter 13 bankruptcy petition, the court will schedule a meeting of creditors for a date about a month after you file. The court then sends an official notice of the meeting to all your creditors. You (and your spouse if you have filed jointly) are required to attend. You’ll need to bring two forms of ID—a picture ID and proof of your Social Security number.

Your creditors’ meeting, if it’s typical, will last less than 15 minutes. The trustee will briefly go over your forms with you. No judge will be present. The trustee is likely to be most interested in the fairness of your proposed plan and your ability to make the payments you have proposed. (See Chapter 2, Section B, for more on Chapter 13 requirements). The trustee has a vested interest in helping you successfully navigate the Chapter 13 process: Remember, the trustee gets paid a percentage of all payments doled out under your plan.

When the trustee is finished, any creditors who showed up are given a chance to question you. Often, secured creditors come, especially if they have any objections to the plan you have proposed as part of your Chapter 13 filing. They may claim, for example, that your plan isn’t

feasible, that you're giving yourself too much time to pay your arrears on a secured debt, or that the value you assigned the collateral is wrong. An unsecured creditor who is receiving very little under your plan might show up, too, if that creditor thinks you should cut your living expenses and thereby increase your disposable income.

At the end of the hearing, be ready to negotiate with the creditors. If you agree to make changes to accommodate their objections, you must submit a modified plan. While the trustee won't use the creditors' meeting to rule on any objections raised by the creditors, the trustee may raise these objections on behalf of the creditors at your confirmation hearing before the judge. For more information on the confirmation hearing, see Chapter 8, Section C.



In Appendix A at the back of this book is a checklist entitled “Should I File for Bankruptcy?” This checklist summarizes the issues discussed in each chapter, and helps you make decisions based on your own situation. Now is the time to complete the Chapter 1 questions on the checklist.

HISTORY OF BANKRUPTCY

In one form or another, debtors unable to pay their bills have been around for a long time. Not surprisingly, so has bankruptcy.

Modern American bankruptcy began with the Bankruptcy Act of 1898. This law allowed both voluntary and involuntary cases, permitted debtors to keep certain items of property, and removed most barriers for eliminating virtually all debts. One commentator of the time suggested Congress went too far in favoring debtors.

During the 1920s, the act was amended to add grounds to deny a bankruptcy and to add debts that could not be wiped out. In 1938, the Chandler Act saw the radical overhaul of American bankruptcy law. Although most of the changes affected business bankruptcies, the Chandler Act created Chapter 13, the wage earners' plan.

The next—and last—major change came with the enactment of the Bankruptcy Act of 1978. This is the law that exists today. However, Congress almost annually considers legislation that would radically amend the current bankruptcy law. (See Chapter 11 for a summary of the latest bill.)

ADDITIONAL RESOURCES

After you read this book, you may find one or more of the following Nolo books helpful:

How to File for Chapter 7 Bankruptcy, by Stephen R. Elias, Albin Renauer, Robin Leonard, and Kathleen Michon. This do-it-yourself bankruptcy book takes you through the filing process for the kind of bankruptcy that wipes out your debts. It gives practical advice, and supplies all the official bankruptcy forms you'll need, with complete instructions.

Chapter 13 Bankruptcy: Repay Your Debts, by Robin Leonard. This book takes you through the entire Chapter 13 bankruptcy process, step by step. It provides the official bankruptcy forms, with complete instructions. You'll learn how to create a repayment plan, represent yourself in bankruptcy court, and deal with unexpected changes.

Money Troubles: Legal Strategies to Cope With Your Debts, by Robin Leonard. A practical book to help you prioritize debts, negotiate with creditors, stop collector harassment, challenge wage attachments, contend with repossession, respond to creditor lawsuits, and rebuild your credit. Contains sample letters to creditors as well as worksheets and charts to calculate a budget and create a payment plan.

Credit Repair, by Robin Leonard and Deanne Loonin. This book shows how to fix your credit situation quickly, easily, and legally. It teaches you how to read and understand your credit report, fix mistakes and get positive information added to your credit report, avoid credit discrimination, and defend your good credit from fraud and identity theft. Includes sample credit reports and letters to creditors, as well as lists of agencies and organizations to turn to for additional help.

Divorce & Money: How to Make the Best Financial Decisions During Divorce, by Violet Woodhouse and Dale Fetherling. This book can help you with the overwhelming financial decisions of divorce: selling the house, dividing debts, discovering assets, setting alimony and child support, handling retirement benefits and taxes, and negotiating a fair settlement. Contains worksheets, charts, formulas, and tables.

Take Control of Your Student Loan Debt, by Robin Leonard and Deanne Loonin. Comprehensive strategies for paying off debt, deferring repayment, avoiding default, and handling collection efforts. With sample forms and letters.



2

Who Can File for Bankruptcy?

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Although bankruptcy might be a fine solution to your debt problems, you may not be eligible to file. For example, Chapter 7 bankruptcy isn't available if you've already received a Chapter 7 discharge in a case filed within the previous six years. And you can't file for Chapter 13 bankruptcy if your debts exceed a certain amount. Your eligibility to file is something you should figure out right away.

A. Chapter 7 Eligibility Requirements



Are you positive that you can't or don't want to file Chapter 7 bankruptcy? If so, skip ahead to the discussion of Chapter 13

bankruptcy in Section B, below.

There are several basic eligibility requirements you must meet to file a "consumer" Chapter 7 bankruptcy (the standard liquidation bankruptcy for individuals).

1. You Must Be an Individual (or Married Couple) or Small Business Owner

To file a consumer Chapter 7 bankruptcy case, you must be an individual (or a husband and wife filing jointly) or a small business owner. As a small business owner, you can include all business debts on which you have personal liability. For example, if you operate your business as a sole proprietor or in partnership with your spouse, you, or you and your spouse, are personally liable for the debts of the business. For bankruptcy purposes, you and your business are one and the same. You can include all of the business debts in your consumer Chapter 7 bankruptcy case.

Similarly, if you are a member of a business partnership with people other than your spouse, you can file for Chapter 7 bankruptcy as a consumer and include all business debts on which you are personally liable. Your partners will remain fully liable for the debts you wipe out, however.



If you are a member of a business partnership, you'll probably want to consult a small business lawyer before you file for bank-

ruptcy. Your obligation to your partners may be governed by any buy-sell agreement that requires you to terminate your partnership interest before filing for bankruptcy. If you don't follow that agreement or any other understanding you and your partners have, you probably will be putting the partnership property at risk. Your partners (or ex-partners) may ask the bankruptcy court to lift the automatic stay so they can file a lawsuit against you.

You cannot file a consumer Chapter 7 bankruptcy case on behalf of a corporation, limited liability company, or partnership. In that situation, you must file a "business" Chapter 7 bankruptcy, which is beyond the scope of this book.

2. You Haven't Had a Previous Bankruptcy Discharge

You can't file for Chapter 7 bankruptcy if you got a discharge of your debts in any Chapter 7 or Chapter 13 bankruptcy case begun within the past six years. Note that the six-year period runs from the date you filed the earlier bankruptcy case, not the date of your discharge.

Example: On June 14, 2000 you filed a Chapter 7 bankruptcy. You received your discharge on November 2, 2000. You've fallen on hard times again and are considering filing another Chapter 7 case. You cannot file before June 15, 2006. You can file for Chapter 13 bankruptcy at any time, however.

3. You Aren't Barred by a Previous Bankruptcy Dismissal

You can't file for Chapter 7 bankruptcy if a previous bankruptcy case was dismissed within the past 180 days for any of the following reasons:

- You violated a court order.
- The court ruled that your filing was fraudulent or an abuse of the bankruptcy system.
- You requested the dismissal after a creditor asked the court to lift the automatic stay.

Example: You filed for Chapter 7 bankruptcy on February 12, 2004 after your landlord started eviction proceedings. A week after you

filed, your landlord filed a motion with the bankruptcy court to have the automatic stay lifted to continue the eviction proceedings. You dismissed your case. You've found a new place to live, but your debt problems haven't gone away and you want to refile. You must wait at least 180 days before filing again—that is, until August 12, 2004.

4. You Couldn't Pay Off Your Debts Outside of Chapter 7

If you have enough assets or income to repay most of your debts—either in a Chapter 13 bankruptcy or outside of bankruptcy altogether—the trustee may request the judge to consider your Chapter 7 filing a “substantial abuse” of the bankruptcy system and require you to either convert your case to Chapter 13 bankruptcy or have your case dismissed. Trustees are, as of recently, required to assess the feasibility of a Chapter 13 filing under policies issued by the Office of the U.S. Trustee. (For more on this alarming trend, see Chapter 1, Section A3.)

Even if the trustee pushes this issue, a judge isn't likely to find substantial abuse unless both of the following are true:

- You have an adequate and steady income.
- With a feasible downward modification of your lifestyle, you could pay off all or most of your debts over three to five years.

5. You've Been Honest With Your Creditors

Bankruptcy is geared toward the honest debtor who got in too deep and needs the help of the bankruptcy court to get a fresh start. Your Chapter 7 bankruptcy case may be challenged or dismissed if you have tried to cheat your creditors or concealed assets with a mind to keeping them through bankruptcy.

Certain activities are red flags to trustees. If you have engaged in any of them during the past year and are caught, your eligibility to file a Chapter 7 bankruptcy case is likely to be challenged. The most common no-no is unloading assets or cash to your friends or relatives to hide them from your creditors. Even if you undo such a transaction before you file for Chapter 7 bankruptcy, you may still get your bankruptcy dismissed if the trustee finds out about it. It's also a no-no to:

- run up large debts for luxury items when you clearly are broke and have no prospects for paying the debts.
- conceal property or money from your spouse during a divorce proceeding.

These activities cast a suspicion of fraud over your entire bankruptcy case.

B. Chapter 13 Eligibility Requirements

Like Chapter 7 bankruptcy, Chapter 13 bankruptcy has several important eligibility requirements.

1. Businesses Can't File for Chapter 13 Bankruptcy

To file a Chapter 13 bankruptcy case, you must be an individual (or a husband and wife filing jointly). If you own your own small business, you can include all business debts on which you have personal liability. You have to file your case in your name, however, and not in the name of the business, because a business cannot file for Chapter 13 bankruptcy. On your bankruptcy papers, you will need to list all fictitious business names or DBAs (“doing business as”) that you’ve used as a sole proprietor.

As with Chapter 7 bankruptcy, if you operate your business as a sole proprietorship or in partnership with your spouse, you, or you and your spouse, are personally liable for the debts of the business. For bankruptcy purposes, you and your business are one and the same. You can include all of the business debts in your Chapter 13 bankruptcy case. You can also include the debts you are personally liable for as a member of a business partnership. There is one exception: stockbrokers and commodity brokers cannot file a Chapter 13 bankruptcy case, even just to include personal (nonbusiness) debts.

You cannot file a Chapter 13 bankruptcy on behalf of a corporation, limited liability company (LLC), or partnership. If you want to file a reorganization bankruptcy in that situation, you must file a business Chapter 11 bankruptcy, which is beyond the scope of this book.

2. You Must Have Stable and Regular Income

You must have stable and regular income to be eligible for Chapter 13 bankruptcy. That doesn't mean you must earn the same amount every month. But the income must be steady—that is, likely to continue for an indefinite period—and it must be periodic—weekly, monthly, quarterly, semi-annual, seasonal, or even annual. You can use the following types of income to fund a Chapter 13 plan:

- regular wages or salary
- income from self-employment
- wages from seasonal work
- commissions from sales or other work
- pension payments
- Social Security benefits (although some courts won't allow it)
- disability or workers' compensation benefits
- unemployment benefits, strike benefits, and the like (if other income will be available when these benefits expire)
- public benefits (welfare payments)
- child support or alimony you receive
- royalties and rents
- gifts of money from relatives or friends, and
- proceeds from selling property, especially if selling property is your primary business.

3. You Must Have Disposable Income

For you to qualify for Chapter 13 bankruptcy, you must have enough income in excess of your expenses—called your “disposable income”—to fund a repayment plan that meets Chapter 13 requirements. These requirements include full payment of your priority debts as well as payment of a percentage of your unsecured debts.

4. Your Proposed Payments Must Equal the Value of Your Non-exempt Assets

The total amount of your payments proposed to be paid under your plan must be at least equal to what your creditors would have received had you filed for Chapter 7 bankruptcy—that is, the value of your nonexempt property. (“Exempt” property is the property you would be allowed to

keep if you file a Chapter 7 case. Exempt property is explained in Chapters 4 and 5.) As we emphasize throughout this book, most bankruptcy filers have little or no nonexempt property and thus probably need not be concerned with this particular eligibility requirement.

5. All Your Disposable Income Must Be Devoted to the Plan

Bankruptcy law requires that you pay all your disposable income into your Chapter 13 plan for a minimum of 36 months, unless you can pay off all of your debts in less time. On the other hand, if making 36 monthly payments will not be enough to repay the minimum amount required by the court, you will have to do one of the following:

- Ask the court to approve a plan that lasts more than 36 months. The court can authorize a plan of up to 60 months (five years).
- Increase your monthly disposable income, usually by decreasing your expenses, so that more money is distributed to your creditors each month.
- Before you file, sell property to pay down your debts so that your disposable income will be enough to fund the plan.

6. Your Plan Must Pay 100% of Certain Debts

High priority debts such as back taxes and child support must be paid in full over the life of your Chapter 13 plan. (For more on what debts take priority, see Chapter 3.) If you are in arrears on debts secured by collateral, such as a car note or a mortgage, you must also pay the arrears in full under the plan if you want to hold on to the property. Unsecured debts do not need to be paid in full, but some courts are more liberal than others as to what percentage of repayment they require. For example, some courts allow plans to pay zero on unsecured debts, while others require a percentage as high as 75%.

7. Your Proposed Budget Must Be Reasonable

To determine whether your disposable income is high enough to fund a Chapter 13 plan, you must create a reasonable monthly budget. If you are not proposing to repay 100% of your unsecured debts, the court, the trustee, or a creditor may challenge your budget if they think it's too generous—that is, it includes expenses other than necessities.

On the flip side, if you aren't realistic about what it costs to live—that is, you've understated your expenses so that you produce enough income to fund a plan—your creditors or the trustee are likely to object on the ground that your plan isn't feasible. And even if there is no objection, it may not be in your best interest to file a Chapter 13 bankruptcy that is doomed to fail.

8. Your Debts Must Not Be Too High

You do not qualify for Chapter 13 bankruptcy if your secured debts exceed \$871,550 or your unsecured debts are more than \$290,525. If you need help figuring out which of your debts are secured and which are unsecured, keep reading.

a. Secured Debts

A debt is “secured” if you stand to lose specific property when you don't make your payments to the creditor. Most secured debts are created when you sign loan papers giving a creditor a security interest in your property—such as a home loan or car loan. But a debt might also be secured if a creditor has filed a lien (a legal claim against your property which must be paid before the property can be sold), against your property. Here is a list of common secured debts and liens:

- **Mortgages** (called deeds of trust in some states), which are loans to buy or refinance a house or other real estate. If you fail to pay, the lender can foreclose on your house.
- **Home equity loans** (second mortgages) from banks or finance companies. If you fail to pay, the lender can foreclose on your house.
- **Loans for cars, boats, tractors, motorcycles, or RVs.** If you fail to pay, the lender can repossess the vehicle.
- **Store charges with a security agreement.** Almost all store purchases on credit cards are unsecured. Some stores, notably Sears and J.C. Penney, however, claim to retain a security interest in all hard goods (durable goods) purchased, or they make customers sign security agreements when they use their store charge card.

- **Personal loans from banks, credit unions, or finance companies.** Often you must pledge valuable personal property, such as a paid-off motor vehicle, as collateral for these loans. The property can be repossessed if you don't make the payments.
- **Judicial liens.** A judicial lien can be imposed on your property only after somebody sues you and wins a money judgment against you. In most states, the judgment creditor then must record (file) the judgment with the county or state. The recorded judgment creates the lien on your real estate and, in some states, on some of your personal property as well.
- **Statutory liens.** Some liens are automatic, by law. For example, in most states, when you hire someone to work on your house, the worker and the supplier of materials automatically gets a mechanic's lien (sometimes called a materialman's or contractor's lien) on the house if you don't pay.
- **Tax liens.** If you owe money to the IRS or other taxing authority, the debt is secured if the agency has recorded a lien against your property.

b. Unsecured Debts

An unsecured debt is any debt for which you haven't pledged collateral and for which the creditor has not filed a lien against you. If the debt is unsecured, the creditor is not entitled to repossess or seize any of your property if you don't pay.

Most debts are unsecured. Some of the common ones are:

- credit and charge card purchases and cash advances
- department store credit card purchases, unless the store retains a security interest in the items you buy or required you to sign a security agreement
- gasoline company credit card purchases
- back rent
- medical bills
- alimony and child support
- student loans
- utility bills

- loans from friends or relatives, unless you signed a promissory note secured by some property you own
- health club dues
- lawyers' and accountants' bills
- church or synagogue dues, and
- union dues.



Now is the time to complete the Chapter 2 questions on the “Should I File for Bankruptcy?” checklist in Appendix A at the end of the book. ■

3

Will I Wipe Out My Debts?

A. Debts You Will Still Owe After Chapter 7 Bankruptcy	3/2
1. Debts Not Dischargeable Unless an Exception Applies	3/3
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B. Debts You Will Still Owe After Chapter 13 Bankruptcy	3/13
C. Bankruptcy and Joint Debtors	3/13
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The primary reason why a person files for bankruptcy is to get rid of debts—either immediately (in a Chapter 7 bankruptcy) or over time (in a Chapter 13 bankruptcy). This chapter explains what types of debts are, and are not, “discharged” (wiped out) in a Chapter 7 bankruptcy, and what types of debts you might still owe after your Chapter 13 bankruptcy is over.

A. Debts You Will Still Owe After Chapter 7 Bankruptcy

Under the bankruptcy laws, several categories of debts may turn out to be “not dischargeable”—that is, they can’t be eliminated in bankruptcy, and you’ll be stuck with them even after the case is over. Some debts are treated as nondischargeable unless you speak up and prove that the debt fits within a narrow exception to the general rule. Other debts will survive the bankruptcy only if a creditor files an objection in the bankruptcy court, and convinces the court to rule that the debt shouldn’t be discharged.



ARE SECURED DEBTS DISCHARGEABLE?

Some types of secured debts are linked to specific items of property, called collateral. The property guarantees payment of the debt. The most common secured debts include loans for cars and homes.

For these types of secured debts, bankruptcy eliminates your personal liability for your secured debts—the creditor can't sue you for the debt itself. But bankruptcy doesn't eliminate the creditor's hold, or "lien" on the secured property.

Other types of secured debts arise involuntarily, often as a result of a court money judgment or an enforcement action by the IRS. In these cases too, bankruptcy gets rid of the underlying debt, but may not eliminate a lien placed on your property by the IRS or a judgment creditor.

In a Chapter 7 bankruptcy, you can always hold on to collateral for a secured debt by paying the creditor the current value of the property or the debt amount, whichever is less. In a Chapter 13 bankruptcy, you often can get rid of the lien on any property except real estate by paying the fair market value of the property over time, even if the actual amount owed under the contract is much higher. In a few situations, particularly liens created by court judgments, you can file papers with the court to request that a lien be wiped out.

If you wish, you can even agree with the creditor to have the debt survive bankruptcy, keep the collateral, and make payments under the original loan agreement. However, this last option isn't recommended, because you may get a better deal from the court: Bankruptcy courts in some states will let you get rid of the debt and still hold on to the property, as long as you stay current on your payments

1. Debts Not Dischargeable Unless an Exception Applies

As we mentioned, several kinds of debts cannot be discharged unless you show the bankruptcy court that the debt really is dischargeable because it falls within an exception.

a. Debts or Creditors You Don't List

Bankruptcy requires you to list all your creditors on your bankruptcy papers and provide their most up-to-date addresses. That way, the court can mail out notice of your bankruptcy with the best chance of reaching

them. But what happens if the official notice fails to reach the creditor for some reason beyond your control—for example, because the post office errs, or the creditor changed locations without leaving a forwarding address? In those situations the debt will be discharged, assuming that it is otherwise dischargeable.

Suppose however, that you forget to list a creditor on your bankruptcy papers or carelessly misstate a creditor's identity or address. In that case the creditor won't be notified by the court, and it's possible that the debt will not be discharged. Whether this happens depends on two facts.

- If the creditor knew or should have known of your bankruptcy through other means, such as a letter or phone call from you, the debt will be discharged.
- If you are filing a Chapter 7 case and all of your assets are exempt—that is, yours is a “no-asset” case—the debt will be discharged unless the creditor could have successfully objected to the debt in the bankruptcy court, or unless the debt otherwise survives the bankruptcy. The reason for this second rule is that, in a no-asset case, the creditor didn't really lose anything by not being notified, since there were no assets for distribution.

If at any time during the bankruptcy case you discover that you left a creditor or a debt off your bankruptcy papers, you can amend the papers. And if you don't discover the omission until after your case is over, you can make a request to the court to reopen your case to amend your papers and have the loan discharged. Your request is more likely to be granted if less than a year has passed since your case ended. However, if the creditor would not benefit from the bankruptcy being reopened, many courts will refuse your request (because it's not necessary).

b. Student Loans

Most student loans can't be discharged—you'll still have to repay them after bankruptcy. But on rare occasions, the bankruptcy court will let a student loan debtor off the hook—in whole or in part—if the court is convinced that repaying the loan would cause the debtor “undue hardship.”

You need to file a separate action in the bankruptcy court to get the court to rule on this issue.



An action to discharge a student loan debt typically requires the services of an attorney, although it's possible to do it yourself if you're willing to put in the time. See Chapter 8, Sections B and C, about going to bankruptcy court generally.

In determining undue hardship, most bankruptcy courts look to three factors (listed below). If you can show that all three factors are present, the court is likely to grant you an undue hardship discharge of your student loan.

- **Poverty.** Based on your current income and expenses, you cannot maintain a minimal living standard and repay the loan.
- **Persistence.** Your current financial condition is likely to continue indefinitely—that is, your situation is hopeless or virtually hopeless.
- **Good faith.** You've made a good-faith effort to repay your debt. (You're not likely to be granted a hardship discharge if you file for bankruptcy immediately after getting out of school or if you haven't looked extensively for employment.)

As we strongly suggest, courts rarely allow student loans to be discharged on hardship grounds. They take the position that Congress wants student loans to be repaid, absent exceptional circumstances. In some cases, courts will find that it would be an undue hardship to repay the entire loan and relieve the debtor of a portion of the debt. Other courts take the position that it's an all-or-nothing proposition—either the entire loan is discharged or none of it is discharged.

SPECIAL RULES FOR HEAL AND PLUS LOANS

The federal Health Education Assistance Loans (HEAL) Act, not bankruptcy law, governs HEAL loans. Under the HEAL Act, to discharge a loan, you must show that the loan became due more than seven years past, and that repaying it would not merely be a hardship, but would impose an “unconscionable burden” on your life.

Parents can get Parental Loans for Students (PLUS Loans) to finance a child’s education. Even though the parent does not receive the education, the loan is treated like any other student loan if the parent files for bankruptcy. The parents must meet the undue hardship test to discharge the loan.



For more on student loans generally, and on discharging a student loan in bankruptcy, see *Take Control of Your Student Loan Debt*, by Robin Leonard and Deanne Loonin (Nolo).

c. Taxes

In practice, federal, state, and local tax debts are seldom dischargeable in Chapter 7 bankruptcy. And even if they are, the taxing authority will probably be able to enforce any tax lien that has been placed on your property. Here are the specifics.

Income taxes. You can discharge debts for income taxes in Chapter 7 bankruptcy only if all of these four conditions are true:

- You filed a legitimate (nonfraudulent) tax return for the tax year or years in question.
- The liability you wish to discharge is for a tax return (not a Substitute for Return) actually filed at least two years before you filed for bankruptcy.
- The tax return for the liability you wish to discharge was due at least three years before you filed for bankruptcy.
- The taxing authority has not assessed your liability for the taxes within the 240 days (eight months) before you filed for bankruptcy. (You’re probably safe if you do not receive a formal notice of assessment of federal taxes from the taxing authority within that 240-day period.)

If you meet this four-part test, your personal liability for the taxes should be discharged. However, any lien placed on your property by the taxing authority will remain after your bankruptcy, which gives the taxing authority a way to collect. The result is that the taxing authority can't go after your bank account or wages, but you'll have to pay off the lien before you can sell your property with a clear title.

Also, if you borrowed money or used your credit card to pay taxes that would otherwise not be discharged, you can't eliminate that loan or credit card debt in bankruptcy. In other words, you can't turn your nondischargeable tax debt into a dischargeable tax debt by paying it on your credit card.

Property taxes. Property taxes aren't dischargeable unless they became due more than a year before you file for bankruptcy. But even if your personal liability for paying the property tax out of your pocket is discharged, the tax lien on your property is unaffected. From a practical standpoint, this discharge is no discharge at all, because you'll have to pay off the lien before you can transfer the property with a clear title. In fact, you may even face a foreclosure action if it takes you too long to come up with the money.

Other taxes. Other types of taxes that aren't dischargeable are business-related: payroll taxes, excise taxes, and customs duties. Sales, use, and poll taxes are also probably not dischargeable.



If you owe any of these nondischargeable, business-types of tax debts, see a bankruptcy attorney.

d. Child Support and Alimony

An obligation that has been labeled child support, alimony, or something similar will not be discharged. Some other debts may also escape discharge under this exception, even though they are called something else. The most common examples of this type of debt are certain marital debts—the debts one spouse agreed to or was ordered to pay when a couple divorced.

Often, a spouse who is paying alimony agrees at the time of a divorce to pay more than half of the marital debts, in exchange for a

lower alimony obligation. If that spouse later files for bankruptcy, a portion of the marital debts may really be alimony and considered not dischargeable. Similarly, one spouse may have agreed to pay some of the other spouse's or the children's future living expenses (shelter, clothing, health insurance, and transportation) in exchange for a lower support obligation. The obligations to pay the future living expenses may be treated as support owed to the other spouse and considered nondischargeable.

Some divorce-related but nonsupport debts, may be declared nondischargeable if the nonfiling ex-spouse objects. (See Section A2, below.)

e. Fines, Penalties, and Restitution

You can't discharge fines, penalties, or restitution that a federal, state, or local government has imposed to punish you for violating a law. Examples include:

- fines for infractions, misdemeanors, or felonies
- fines imposed by a judge for contempt of court
- fines imposed by a government agency for violating agency regulations
- surcharges imposed by a court or agency for enforcement of a law, and
- restitution you are ordered to pay to victims in criminal cases.

f. Court Fees

You can't discharge a fee imposed by a court for the filing of a case, motion, complaint, or appeal, or for other costs and expenses assessed for that court filing. The law targets prisoners who attempt to discharge court fees, especially fees related to appeals, but its scope is much greater.

g. Intoxicated Driving Debts

Debts for the death of, or personal injury to, someone resulting from your driving while illegally intoxicated by alcohol or drugs aren't dischargeable. But what if you are sued and the judge or jury finds you liable but doesn't specifically find that you were intoxicated? This may not help

you: The judgment against you won't be discharged if the bankruptcy court (or a state court in a judgment collection action) determines that you were, in fact, intoxicated.

However, debts for property damage resulting from your intoxicated driving are dischargeable.

h. Debts You Couldn't Discharge in a Previous Bankruptcy

If a bankruptcy court dismissed a previous bankruptcy case because of your fraud or other bad acts (misfeasance), you cannot discharge any debts that you tried to discharge in that earlier bankruptcy. (This rule doesn't affect debts incurred since the date you filed the earlier bankruptcy case.)

Example: You filed for Chapter 7 bankruptcy in 2001, during a really rough time in your life. You had received a Chapter 7 discharge in 1998, which made you ineligible to file for Chapter 7 again before 2004, so you used a phony Social Security number when you filed in 2001. The court quickly discovered your ruse and dismissed your case. Luckily for you, you were not prosecuted for fraud. You want to file a Chapter 7 case again. You can, because six years have passed since you received your 1998 discharge. You won't be able to discharge any of the debts you listed in your 2001 case, however.

2. Debts Discharged Unless the Creditor Objects

Four types of debts may survive bankruptcy if, and only if, the creditor objects during the bankruptcy proceedings and proves that the debt fits into one of the categories discussed below.



You may get more debts discharged than you might expect.

Many creditors—and their attorneys—are clueless about bankruptcy, and rarely understand that they have limited rights to object to the discharge of certain debts. Even if you owe one of the debts described in this section, the creditors may simply write it off. It can cost the creditor a lot to bring a “dischargeability action” (as this type of case is known). And even if the creditor is savvy about creditors' rights, a cost-benefit analysis may dictate letting your debt be discharged.

a. Debts From Fraud

This category has several subcategories. In order for a creditor to prove that one of your debts should escape discharge due to fraud, the debt must fit at least one of the descriptions that follow.

Debts from intentionally fraudulent behavior. If a creditor can show that a debt arose because of your dishonest act, and that the debt wouldn't have arisen had you been honest, the court will probably not let you discharge the debt. These are common examples:

- You wrote a check for something and stopped payment on it after changing your mind and deciding not to pay.
- You wrote a check against insufficient funds but assured the merchant that the check was good.
- You rented or borrowed an expensive item and claimed it was yours, in order to get a loan when using it as collateral.
- You got a loan by telling the lender you'd pay it back, when you had no intention of doing so.

For a debt to be nondischargeable under this section, your deceit must be intentional, and the creditor must have relied on your deceit in extending credit.

Debts from a false written statement about your financial condition. If a creditor proves that you incurred a debt because of a false written statement you made, the debt isn't dischargeable. Here are the rules:

- The false statement must be written—for instance, made in a credit application, rental application, or resume.
- The false statement must have been “material”—that is, it was a potentially significant factor in the creditor's decision to extend you credit. The two most common materially false statements are omitting debts and overstating income.
- The false statement must relate to your financial condition or the financial condition of an “insider”—a person close to you or a business entity with which you're associated.
- The creditor must have relied on the false statement, and the reliance must have been reasonable.

- You must have intended to deceive the creditor. This is extremely hard to prove based simply on your behavior. The creditor would have to show outrageous behavior on your part, such as adding a “0” to your income (claiming \$180,000 when you make only \$18,000) on a credit application.

Recent debts for luxuries. Bankruptcy law presumes that if you ran up debts of more than \$1,150 to one creditor for luxury goods or services within the 60 days before you filed for bankruptcy, you intended to cheat the creditor or subvert the bankruptcy process.

Recent cash advances. If you got cash advances totaling more than \$1,150 under an open-ended consumer credit plan within the 60 days before you filed for bankruptcy, the debt is nondischargeable. “Open-ended” means there’s no date when the debt must be repaid, but rather, as with most credit cards, you may take forever to repay the debt as long as you pay a minimum amount each month.



Additional information on credit card issuers’ attempts to have credit card debt declared nondischargeable because of fraud is explained in Chapter 6, Section D.

b. Debts From Willful and Malicious Acts

If the act that caused a debt was willful and malicious (an act that intended to produce a specific injury), the debt isn’t dischargeable if the creditor successfully objects. However, most creditors don’t object.

Generally, crimes that injure people or property are considered willful and malicious acts. An example is stabbing someone with a knife because you’re angry. Your liability for the injury or damage the victim sustained will probably be ruled nondischargeable if the victim-creditor objects during your bankruptcy case. Other acts sometimes considered to be willful and malicious include:

- kidnapping
- deliberately causing extreme anxiety, fear, or shock
- libel or slander, and
- acts a landlord can’t do to evict a tenant, such as removing a door or changing the locks.

c. Debts From Embezzlement, Larceny, or Breach of Fiduciary Duty

A debt incurred as a result of embezzlement, larceny, or breach of fiduciary duty is not dischargeable if the creditor successfully objects to its discharge.

“Embezzlement” means taking property entrusted to you for another and using it for yourself. “Larceny” is another word for theft. “Breach of fiduciary duty” is the failure to live up to a duty of trust you owe someone, based on a relationship where you’re required to manage property or money for another, or where your relationship is a close and confidential one. Common fiduciary relationships include those between:

- business partners
- attorney and client
- estate executor and beneficiary
- guardian and ward, and
- husband and wife.

d. Nonsupport Debts From a Divorce Decree or Marital Settlement Agreement

Any nonsupport debt arising from a separation agreement or divorce, or in connection with a marital settlement agreement, divorce decree, or other court order, can be discharged unless the creditor objects. (Support debts automatically survive bankruptcy. See Section A1, above, for an explanation.) Your ex-spouse or child must challenge the discharge of the debt in the bankruptcy court. The court will allow the debt to be discharged unless one of the following is true:

- You have the ability to pay the debt from income or property that is not reasonably necessary for your support and not reasonably necessary for you to continue, preserve, and operate a business.
- Discharging the debt would result in a detriment to your former spouse or child that would outweigh the benefit you would receive by the discharge.

It’s easy to confuse this category with nondischargeable alimony or child support. (See Section A1, above, for a description.) That’s because not all separation agreements or divorce decrees specify which category fits the payments ordered. For example, if you agreed to pay the marital

debts in exchange for your spouse giving up (waiving) his or her full share of the marital property and alimony, it's not clear whether the debts you agreed to pay constitute marital debts (as discussed in this section) or are in the nature of support (as discussed in Section A1). To the extent that the debts are in exchange for waiving alimony, they probably are "in the nature of support" and are not dischargeable. To the extent they cover the division of marital debts and property, they fall into this potentially dischargeable category.

B. Debts You Will Still Owe After Chapter 13 Bankruptcy

Even if you successfully complete your Chapter 13 plan, it's possible that you'll still owe money to some of your creditors when your case is over. Debts that are nondischargeable (described in Section A1, above), cannot be discharged in any kind of bankruptcy case, whether Chapter 7 or Chapter 13. If the debt was one on which the creditor was entitled to collect interest (such as a student loan or tax debt), you'll owe more than the unpaid balance. The creditor can and will probably tack on interest that accrued during your Chapter 13 case.

The debts that may escape discharge in a Chapter 7 case if a creditor successfully objects are treated the same as regular unsecured debts in a Chapter 13 bankruptcy (such as credit cards and medical bills). As long as you satisfy the requirements of your Chapter 13 plan, the balance on these debts is wiped out at the end of your case, under what is referred to as Chapter 13 bankruptcy's "superdischarge."

C. Bankruptcy and Joint Debtors

Debts for which you have a joint debtor—another debtor with you on the same debt—raise some tricky issues. Let's look at the different kinds of joint debtors and what your bankruptcy filing might mean.

1. Cosigners and Guarantors

Someone may have signed onto your debt, in order to back up or guarantee your payment. If the underlying debt for which you have a

cosigner or guarantor is dischargeable, your joint debtor will get stuck owing the bill if you file for Chapter 7 bankruptcy and wipe out your own liability for the debt.

If you want to file for Chapter 7 bankruptcy but don't want to stick it to a cosigner or guarantor, you can agree with the creditor as a part of your bankruptcy case to reaffirm the debt—that is, to be fully liable for it when your bankruptcy ends.



If possible, it's best for you to discharge the debt and then reimburse the cosigner for any liability.

This approach gives you more flexibility regarding repayment than you'd have if you defaulted on your payments to the regular creditor under a reaffirmation agreement. Also, it's possible that the creditor won't proceed against the cosigner, for a variety of reasons. And finally, it's possible that the cosigner will also decide to file bankruptcy.

If you file for Chapter 13 bankruptcy, you can include the cosigned or guaranteed debt as part of your repayment plan, and your joint debtor will not be pursued during your bankruptcy case—which typically will last at least three years. If you can, you should pay the debt in full during your case. If you don't, you will be entitled to discharge whatever balance remains when your case is over, assuming the debt is otherwise dischargeable in a Chapter 13 bankruptcy. But in that situation, the creditor can go after the joint debtor for the balance.



BANKRUPTCY AND PREFERENCES

If you file for Chapter 7 bankruptcy and have a joint debtor who is a relative, close friend, or business associate, it's possible that the joint debtor could be liable to the bankruptcy trustee for what you pay the creditor. Here's how this works.

When you file for bankruptcy, the bankruptcy trustee will look to see if you made any payments to creditors within the 90 days before you filed—or within one year of filing if those payments were made to, or even made for the benefit of, a relative or close business associate. These payments are called “preferences” and they're not permitted. The idea is that you shouldn't be allowed to single out certain creditors for special treatment just before you file for bankruptcy.

The bankruptcy trustee can demand that the creditor return the preferential payment so that it can be divided equally among your unsecured creditors. If the creditor pays up and the debt is discharged in bankruptcy, you won't owe anything, but your joint debtor will be on the hook for whatever remains of the original debt.

Suppose the creditor can't or won't cough up the preference money you paid. Technically, the trustee could sue the creditor. But an easier route for the trustee may be to go after your joint debtor—who benefited from the preference because your payment wiped out or reduced his or her liability for the debt. Under this scenario, believe it or not, the joint debtor would have to pay the trustee the amount of the preference. The joint debtor continues to be liable for the debt, which is of course reduced by the amount of the preference kept by the creditor.

2. Spouse

Most married couples file for Chapter 7 bankruptcy together, because their debts are joint. However, if you are in a relatively new marriage, have not accumulated any joint (marital) property, and want to get rid of separate (premarital) debts, you are probably safe filing alone. In addition, you may want to file alone if any of the following are true:

- **Your spouse owns separate, valuable property, such as a second home.** Your spouse would probably lose it to the bankruptcy court.

- **You and your spouse own a house in tenancy by the entirety.**

This form of property ownership can apply to property owned by married couples in some non-community property states. It may give special protection in bankruptcy for property that is located in Delaware, the District of Columbia, Florida, Hawaii, Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, North Carolina, Pennsylvania, Tennessee, Vermont, Virginia, or Wyoming. If one spouse files for bankruptcy to get rid of separate debts, that spouse's creditors (and therefore the bankruptcy court) usually cannot take tenancy by the entirety property located in those states. If both spouses file, however, no states provide special protection for tenancy by the entirety property. The property is available to the trustee to be used to pay debts the couple jointly incurred, unless some other kind of exemption (for example, a homestead exemption) protects the property.



This strategy doesn't always work. If you have tenancy by the entirety property in one of these states, you'll want to talk to a local bankruptcy lawyer about the effect on your property that filing may have.

- **You and your spouse have separated.** In such a situation, filing alone makes sense unless you haven't yet allocated debts and divided property.
- **You live in a community property state.** In community property states, virtually all debts incurred during marriage are considered community, or jointly owed. Under bankruptcy law, if only one spouse files for Chapter 7 bankruptcy in a community property state, the community property is considered property of the estate and the other spouse's share of the community debts is also discharged. In other words, the nonfiling spouse gets the benefit of the filing spouse's discharge with respect to the community debts. The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Also, a married couple in Alaska can agree in writing to treat their marital property as community property.



If you are married and one spouse will be filing bankruptcy separately, we strongly advise that you consult with a local bankruptcy lawyer.

In a Chapter 13 bankruptcy, it rarely makes sense for only one spouse to file. The filing spouse must list the income, expenses, and property of both spouses, and the bankruptcy case will have an impact on both spouses.

If you are married, you should file for Chapter 13 bankruptcy alone only if all of the following are true:

- You are separated from your spouse.
- You've divided your property.
- You've agreed to pay the jointly incurred marital debts.
- You've otherwise ended your financial entanglements (other than paying or receiving alimony or child support).

3. Business Partners

The effect of your bankruptcy filing on your business partners is discussed in Chapter 2, Sections A1 and B1.



Now is the time to complete the Chapter 3 questions on the “Should I File for Bankruptcy?” checklist in Appendix A at the back of the book. ■

4

Will I Lose My House or Apartment?

- A. Homeowners Filing for Bankruptcy 4/2
 - 1. If You're Current on Your Mortgage Payments 4/3
 - 2. If You're Behind on Your Mortgage Payments 4/8
- B. Renters Filing for Bankruptcy..... 4/12

One of the biggest worries you may face in deciding whether to file for bankruptcy is the possible loss of your home, whether you own or rent. Take a deep breath and understand that the bankruptcy system is not designed to put you out on the street. If you're current on your house or rent payments and can afford to keep paying them, your chances of staying in your current abode look good. If you're behind but can now afford to make your payments, you might be able to get back on track through bankruptcy. Even if you can't afford your payments, bankruptcy may provide a little breathing room to deal with the inevitable: finding a new place to live.



Read Section A if you're a homeowner. Skip ahead to Section B if you rent.

A. Homeowners Filing for Bankruptcy

Whether you'll be able to keep your home after filing for bankruptcy will depend on a number of factors—including whether you are current or behind on your mortgage payments, how much equity you own, the state in which you live, and whether you file a Chapter 7 or Chapter 13 bankruptcy. There are two general rules:

- **If you are current on your mortgage payments.** Whether or not you will lose your home in a Chapter 7 bankruptcy depends on the amount of equity you have in the property and the amount of any homestead exemption to which you are entitled. ("Equity" and "homestead exemption" are defined in Section A1, below.) If you file for Chapter 13 bankruptcy, you will not lose your home as long as you continue to make your mortgage payments.
- **If you are behind on your mortgage payments.** You will almost certainly lose your home if you file a Chapter 7 bankruptcy. Your mortgage lender will ask the bankruptcy court to lift the "automatic stay" (the court order that bars creditors from trying to collect their debts, discussed in Chapter 1, Section B), and the court will probably grant the request, allowing the mortgage lender to begin or resume foreclosure proceedings. In a Chapter 13 bankruptcy, you will not

lose your home, no matter how much your equity is, if you immediately resume making the regular payments called for under your agreement and provide for payment of your missed mortgage payments through your Chapter 13 bankruptcy plan.



The rest of this chapter will discuss Chapter 7 bankruptcy, since what can happen to your home in Chapter 13 bankruptcy was just summarized above. If you know you want to file Chapter 13 bankruptcy, skip ahead to Chapter 5 of this book.

1. If You're Current on Your Mortgage Payments

In a Chapter 7 bankruptcy, if you are current on your mortgage payments, you might still lose your home unless the homestead exemption available to you is high enough to protect your equity. Your “equity” is the difference between the market value of your home and the debt against it

a. How Much Is Your Equity?

If you don't know the current market value of your home, ask a real estate broker familiar with your neighborhood (such as the one you used when you bought your house) for an appraisal. There shouldn't be a charge for this. You can also research the prices of comparable houses in your neighborhood online, at websites such as www.homeradar.com or www.domania.com. Restrict your search to the last six months.

Possible debts against your home include:

- the balance owed on any loan you took out to buy your home or to refinance your purchase (called a mortgage or deed of trust loan)
- the balance owed on any second (or third) mortgage
- the balance owed on any home equity loan or line of credit, and
- tax, judicial, and other liens recorded by someone who claims you owe him or her money.

If the total amount of debt against your home is equal to or more than its market value, you have no equity and aren't at risk of losing the home as long as you keep current on your payments. The reason for this result is that the trustee has no reason to sell a home if it won't produce any money for the unsecured creditors. Of course, in this situation you

may consider your home to be an albatross, in which case you can use bankruptcy to get rid of it by “surrendering” your home to your creditors.

If the total amount of debt against your home is substantially less than the market value, the bankruptcy trustee may want to take the home, sell it, use the proceeds to first pay off the mortgage lenders and any other lienholders, and then use the rest to pay out some money to your unsecured creditors. The trustee won't be able to do this, however, if a homestead exemption entitles you to all (or most) of the equity, and the costs of sale would eat the rest. In that situation, after the trustee accounts for the sale costs and pays off the mortgage lenders and other lienholders, you would be entitled to the amount of your exemption before your unsecured creditors are paid. Again, if there's nothing (or very little) left over for the unsecured creditors, there's no reason for the trustee to sell the home.

Example: The real estate broker you used when you bought your home told you that it is currently worth \$300,000. You owe your mortgage lender \$200,000 and the IRS (which has issued a Notice of Federal Tax Lien) \$35,000. The equity in your home is \$65,000 (\$300,000 minus \$200,000 minus \$35,000). If the homestead exemption available to you is significantly less than \$65,000, you are at risk of losing your home. The bankruptcy trustee might sell your home, pay off the mortgage lender and the IRS, reimburse himself or herself for the cost of selling your home (as much as \$10,000), give you the amount of the exemption (if there even is one) and use the rest of the proceeds to pay to your unsecured creditors. If your state homestead exemption is \$65,000 or more, however, you shouldn't lose your home in Chapter 7 bankruptcy (as long as you are current on your payments). That's because if the bankruptcy trustee sold your home, after paying off the mortgage lender and IRS, you'd get your homestead exemption, which would eat up the rest of the money and leave nothing for the unsecured creditors. As explained in Chapter 1, one of the primary jobs of the bankruptcy trustee is to generate funds for unsecured creditors.

b. How Much Is Protected by a Homestead Exemption?

Your homestead exemption is the amount of equity in your home you are entitled to keep if you file for Chapter 7 bankruptcy. That is one of the few universally applicable statements one can make about the homestead exemption. Another is that the amount of the homestead exemption varies tremendously from state to state. In fact, in a few states, it's not a monetary amount at all—it's based on your lot size. A handful of states have no homestead exemption at all. Some states are at the other extreme, and allow you to protect a very high or even unlimited amount of equity using the homestead exemption. In a few states, the homestead exemption is based on a combination of lot size and a monetary amount.



The homestead exemption won't protect a home you're not living in.

In order to claim a homestead exemption, you must reside in the home as your primary residence when you file for bankruptcy. Homestead exemption laws do not protect second homes, vacation homes, or other real estate in which you aren't living when you file. They do, however, typically apply to mobile homes and boats that are used as your primary residence.

In California and many other states, the homestead exemption automatically kicks in when you file for bankruptcy. However, some states require that you file a Declaration of Homestead with the county recorder in order to use the state's homestead exemption in bankruptcy. The homestead section of the your state's exemption chart in Appendix B alerts you to this requirement where it exists.

In 15 states and the District of Columbia, you must choose between two different homestead amounts—one offered by your state and one offered under the federal Bankruptcy Code. California debtors must also choose between two different amounts, but both amounts are offered under state law.

In a few states, you can increase the amount of the homestead exemption with a state "wild card" exemption—that is, a dollar amount that's available to be put toward any property, in order to make it, or more of it, exempt. Some states allow a husband and wife filing jointly to double the amount of the wild card exemption.

To determine what the homestead exemption is for your state, turn to Appendix B at the back of this book and look in the top box for your state. If the chart for your state indicates that the federal exemptions are available, compare your state's exemption with the federal exemption, which currently is \$17,425 for a single filer and double that for a married couple filing jointly, plus a general purpose (wild card) exemption of \$925 for a single filer and double that for joint filers. So, under the federal exemptions, a married couple may exempt up to \$34,850 plus \$1,850, for a combined total of \$36,700.

In California, the alternate exemption system only allows \$17,425 for a couple as well as a single filer. However, California's primary exemption system allows between \$50,000 (for single filers) and \$125,000 (for elderly and disabled filers), so people in California who have significant equity in their homes tend to choose the primary system (system 1).

c. Keeping Your House When You Have Equity to Lose

If you have nonexempt equity in your home and would lose it if you filed for Chapter 7 bankruptcy, you probably want to explore other options. For instance, if your home would sell for \$300,000, your mortgage were \$100,000, and your state's homestead exemption were \$100,000, you would have \$100,000 of unprotected equity. The trustee would sell your home, pay off the \$100,000 mortgage, pay you your \$100,000 homestead exemption, and use the extra \$100,000 (less costs of sale) to pay your unsecured creditors. If some of this money were left after your unsecured creditors were paid in full and the trustee took his or her cut, you would get that balance in addition to your homestead exemption.

- **Reduce your equity.** If you can reduce your equity, you may be able to pay off your other debts and avoid bankruptcy altogether. If you still need to file for bankruptcy after reducing your equity, you may be able to save your house, although you must then be extremely careful about when you file your bankruptcy. (See "Reducing Your Equity: Timing is Key," below.) There are two ways to reduce your equity:
- **Borrow against the equity.** One way to do this is to refinance your mortgage for more than you currently owe.

Example: You owe \$180,000 on your mortgage at 9%. You have 22 years left on your mortgage, and your monthly payments are \$1,568. Your house is worth \$240,000, giving you \$60,000 of equity, more than your state's homestead exemption of \$30,000. You also owe \$35,000 to the IRS, which is secured by a lien on the property. You refinance your mortgage, reducing your interest rate to 7% and borrowing \$215,000 (\$180,000 to pay off your mortgage and \$35,000 to pay off the IRS). You take out a 30-year loan and reduce your monthly payments to \$1,430. In addition, your equity is now \$25,000 (\$240,000 minus \$215,000), within the homestead exemption.

Another way to borrow against the equity is to take out a home equity loan or line of credit. You may be able to pay off some high-interest debts, such as credit card bills, and avoid bankruptcy. Or you can pay off debts you wouldn't be able to discharge, such as support, taxes, or a recent student loan, and still file for bankruptcy on the other debts.

- **Sell part ownership of your house.** By owning your home jointly with someone else, your equity is reduced by the percentage owned by the other person. However, transferring half of your home to someone else to avoid losing it in bankruptcy can land you in deep trouble with the bankruptcy court—especially if the transaction takes place within a year prior to your filing date.



Make sure you talk to a lawyer before you sell or transfer part of your house to avoid losing it in bankruptcy.



REDUCING YOUR EQUITY: TIMING IS KEY

If you decide to take steps to reduce the equity in your house, timing is key. Most likely, you will have to wait at least 90 days after refinancing or making payments on an equity line of credit before you file your bankruptcy case. That is because payments of \$600 or more, when made to a regular creditor in the 90 days preceding your filing, can be set aside as a forbidden “preferential payment to a creditor.” There’s an exception for payments made in the normal course of business (for example, payments by small business owners going into bankruptcy) or for necessities of life, such as making your regular mortgage payment, paying your utility bills, buying food, and the like.

Payments totaling \$600 or more made to a friend, relative, or close business associate up to one year before you file for bankruptcy can also be set aside, unless they were made in the normal course of business. And transfers that are made to put your property beyond the reach of creditors or the bankruptcy court can get your case dismissed, especially if the transfers took place within the year preceding your bankruptcy filing.

See a lawyer if you wish to engage in this sort of planning. (For more discussion of these preferential payments, see Chapter 3, Section C1, and Chapter 6, Section A.)

- **Offer to substitute cash for the amount of nonexempt equity.** If you want to file for Chapter 7 bankruptcy, but you’re afraid you will lose your house because your equity exceeds the homestead amount, you might be able to save your house if you have cash on hand you can give the trustee instead. You may be able to raise the cash by selling exempt property or using income you earn after you file.
- **File for Chapter 13 bankruptcy.** Chapter 13 bankruptcy lets you pay your debts out of your income, rather than by selling your property. Thus, if you file for Chapter 13 bankruptcy, you won’t give up your home even if you have nonexempt equity.

2. If You’re Behind on Your Mortgage Payments

If you’re behind on your house payments and looking for a solution, you have a number of options available to you, although Chapter 7 bankruptcy probably isn’t one of them. The automatic stay won’t permanently prevent “foreclosure”—the right of a mortgage lender to sell your house

at a public auction and keep the proceeds. At most, it will slow down the foreclosure proceedings for a month or two.

About the only way Chapter 7 bankruptcy can help you is if you can stave off foreclosure for the length of your bankruptcy case. That's because, when the case is over, and your other debts are wiped out or reduced, you may have an easier time getting and remaining current on your mortgage payments, assuming that the loan hasn't yet been accelerated (called in for the entire amount) by the lender.

a. Negotiating With the Lender

If you've missed only a few mortgage payments, your lender may well be willing to negotiate. What the lender agrees to will depend on your credit history, the reason for your missed payments, and your financial prospects.

Here are the possible options your lender might agree to:

- Spread out the repayment of the missed payments over a few months.
- Reduce or suspend your regular payments for a specified time and then add a portion of your overdue amount to your regular payments later on.
- Extend the length of your loan and add the missed payments at the end.
- Suspend the principal portion of your monthly payment for a while and have you pay only interest, taxes, and insurance.
- Refinance your loan to reduce future monthly payments.

b. If the Lender Starts to Foreclose

If your debt problems look severe or long-lasting, the lender may take steps toward foreclosure. In most cases, the lender will accelerate the loan before foreclosure actually occurs. This means you must pay the entire balance immediately. If you don't, the lender is entitled to foreclose.

There are two different kinds of foreclosure. One is called a "judicial" foreclosure, so-named because the lender must file papers in court and obtain the court's approval before foreclosing. This kind of foreclosure can take as long as 18 to 36 months before you would ever lose your

house. If you file for Chapter 7 bankruptcy, your bankruptcy may have little effect on this type of foreclosure. Your bankruptcy will probably start and end before much happens in the foreclosure case. (Remember, Chapter 7 bankruptcy typically takes only three or four months to complete.) The only real effect is that your lender will be barred from sending you foreclosure notices or proceeding with a court hearing unless it files a motion with the court to have the automatic stay lifted. And even if the stay is lifted, it won't affect your bankruptcy, since the judicial foreclosure process will likely be slower.

The other kind of foreclosure is called a “nonjudicial” foreclosure, so-named because the lender does not have to go to court in order to foreclose. Instead, a third-party trustee (not the bankruptcy trustee) sells your property after sending you a series of notices. This trustee is the person or business named in a deed of trust that you signed (or their successors in interest) instead of, or in addition to, the traditional mortgage when you purchased or refinanced your property. Nonjudicial foreclosures can happen quickly, sometimes in as few as three or four months, the same amount of time you are likely to be in a Chapter 7 bankruptcy case.



If you do file, expect the mortgage lender to come to court and request that the automatic stay be lifted.

If you have nonexempt equity in your home, the bankruptcy trustee is likely to successfully oppose the motion and sell the property himself or herself, so your unsecured creditors will get that equity (after the lender is paid and you are paid the amount protected by the homeowner's exemption).

If you have no equity, however, the trustee will probably not oppose the motion to lift the stay and will let the foreclosure go through.

During a foreclosure, you have several options, although if the creditor begins a nonjudicial foreclosure, you may be cut off from some of them simply because of time constraints.

- **Sell your house.** If you don't get any offers that will cover what you owe your lender, the lender may agree to take less. This is called a “short sale.”

- **Get a new loan** that pays off all or part of the first loan and puts you on a new schedule of monthly payments. If the original lender has accelerated the loan, you'll need to refinance the entire balance of the loan to prevent foreclosure.
- **Reinstate the loan.** If the lender hasn't accelerated the loan, you can prevent foreclosure simply by paying the missed payments, taxes, and insurance, plus interest.
- **File for Chapter 13 bankruptcy.** If your lender has started to foreclose, in a Chapter 13 bankruptcy you can make up your missed payments, reinstate the loan, and keep making the payments under the original contract. This is called "curing the default." Your right to cure the default depends on how far along the foreclosure proceeding is. If the lender has accelerated the loan or obtained a foreclosure judgment, you usually can still cure the default. If the foreclosure sale has already occurred, Chapter 13 usually won't help. This is true even if your state law gives you a "redemption right," which lets you buy back the house from the person who bought it at the foreclosure sale, as long as a new deed hasn't yet been recorded.
- **Use Chapter 13 bankruptcy to buy time.** For example, if your lender has begun foreclosure proceedings, you can file for Chapter 13 bankruptcy to put the automatic stay in place to stop further foreclosure activity. During the time it takes for the lender to file a motion to have the stay lifted, for the court to schedule it and for you to appear to argue it, you may be able to sell the house. You can then dismiss your case, unless, of course, you have other debts you want to take care of through a Chapter 13 case.

c. If Foreclosure Is Unavoidable

If it looks like foreclosure is inevitable, losing your home in bankruptcy is often better than losing it in a foreclosure sale.

If it appears that you have enough equity in your home to squeeze some money out for your unsecured creditors—after paying your home-
stead exemption, the costs of sale, and any liens against the property, the bankruptcy trustee will supervise a forced sale of your home for as much money as possible. Remember, the job of the trustee is to generate as

much money as possible for your unsecured creditors. Also, the trustee earns a commission on the payments. On the other hand, in a foreclosure sale, the foreclosing creditor will try to get a price that's only high enough to cover the amount due on the mortgage. So you're more than likely going to lose any equity you have in the house.



If your lender has sent you a foreclosure notice, it may be time to consult with a real estate attorney—quickly. You may have special legal options—and risks—in your state that are not discussed above. See “The Risk of Deficiency Judgments,” below.

THE RISK OF DEFICIENCY JUDGMENTS

In some states, and with certain property, the lender can get a deficiency judgment when the property is foreclosed on. A “deficiency judgment” is a judgment in the amount of the difference between what you owed and what the lender gets for the property at auction. The creditor can use this deficiency judgment to collect the rest of your debt on the foreclosed property by seizing your other available property.

The possibility of a deficiency judgment could affect your strategy when facing a foreclosure. For instance, if you are at risk of a deficiency judgment, you might try to deed the property back to the lender, in exchange for a release from liability (commonly called a “deed in lieu of foreclosure”). But in a state that doesn't permit deficiency judgments, or with property that's not subject to a deficiency judgment, you might benefit from fighting the foreclosure as long as possible without making any payments in the meantime.

These laws vary from state to state, which is one reason you may need to consult a real estate attorney if you get a notice of foreclosure.

B. Renters Filing for Bankruptcy

If you're current on your rent payments and file for either Chapter 7 or Chapter 13 bankruptcy, it's highly unlikely your landlord would ever find out. You won't be listing your landlord as a creditor because you aren't behind. Although you have to list on your bankruptcy papers any security deposits held by your landlord, most debtors can claim these deposits

as exempt. Even if you can't, it's a rare trustee who actually goes after that money, since it would most likely result in your immediate eviction.

About the only time your landlord would find out about your bankruptcy (assuming you are current on your rent) is if he or she goes through your mail (you'll be sent notices from the bankruptcy court) or enters your premises without your knowledge and sees your bankruptcy papers in plain view. In this situation, your landlord may very well be violating state rules on privacy, and you probably have more problems on your hands than just unmanageable debts.

If you are behind on your rent, there's a good chance that your landlord will begin eviction proceedings to get you out. Your inclination may be to file for bankruptcy—either Chapter 7 or Chapter 13—just to get the automatic stay in place to stop the eviction. This will work, but not for very long. Soon after you file, expect your landlord to come barreling into court to have the stay lifted. Filing for bankruptcy has become a favorite tactic for some eviction defense clinics, which file a bare-bones bankruptcy petition to stop evictions even if the tenant's debts don't justify bankruptcy. In response, many bankruptcy courts are willing to grant landlords immediate relief from the stay without looking too closely at the case. This is true even if you have a legitimate bankruptcy.



For more information on dealing with landlords—including when they're trying to evict you—see *Every Tenant's Legal Guide*, by Janet Portman and Marcia Stewart (Nolo).



Now is the time to complete the Chapter 4 questions on the “Should I File for Bankruptcy?” checklist in Appendix A at the end of the book. ■

5

Can I Keep My Car and Other Property?

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Chapter 4 covered what happens to your home if you file for bankruptcy. But a house or apartment may not be the only property you're worried about losing.

Most people who file for bankruptcy desperately want to hold onto something—often a car or pension. Good news here. Many species of pensions are entirely exempt from the bankruptcy process (they are not even in the bankruptcy estate), and most states allow an adequate exemption for a car and other necessities. However, the more upscale your car or other property, or the greater control you have over your pension funds, the greater the likelihood that you'll have to give it up or pay the trustee the equivalent of the property's nonexempt value. In this chapter, we help you figure out what property you're at risk of losing if you file for bankruptcy.

A. Chapter 7 Bankruptcy vs. Chapter 13 Bankruptcy

If you've read the first chapter of this book, you know that the best feature of Chapter 13 bankruptcy for many people is that they can arrange their affairs to repay their debts without giving up any property. Other than selling property voluntarily, to augment the income you devote to your Chapter 13 plan, you only risk losing property if you've missed payments on a secured debt, and the bankruptcy court then lets the creditor repossess or foreclose on the "collateral" (the property securing the debt).

Chapter 7 bankruptcy is different. If you own property that is considered "nonexempt," you may lose it, unless you arrange to give its cash equivalent or other (exempt) property of the same value to the bankruptcy trustee. The cash could come from earnings or loans received after your filing date.

In addition, if you aren't current on a secured debt or can't afford to make payments on it in the future, you may, in a Chapter 7 case, lose the property that secures the debt.



The rest of this chapter covers Chapter 7 bankruptcy cases only. If you believe you want to file a Chapter 13 bankruptcy, you might choose to skip ahead to the next chapter. However, be aware that you may need to return to this chapter to assess the amount of your nonexempt property if the percentage of your unsecured debts you propose to pay in your Chapter 13 plan becomes an issue—because of the Chapter 13 requirement that you at least pay your unsecured creditors the value of your nonexempt property. See Chapter 2, Section B, for more on Chapter 13 eligibility factors.

B. What Property Is Affected by Bankruptcy

The property you own on the day you file for Chapter 7 bankruptcy is called your “bankruptcy estate.” With a very few exceptions (discussed below), property and income you acquire after you file for Chapter 7 bankruptcy aren’t included in your bankruptcy estate. When you file for bankruptcy, the forms you’ll have to fill out will require you to list all the property in your bankruptcy estate (on Schedule A for real estate and Schedule B for personal property).

On another form (Schedule C), you’ll identify which items of property within your bankruptcy estate you’re claiming as “exempt.” Even if your claims are obviously valid, the exempt property technically remains within your bankruptcy estate until your bankruptcy case ends. If the trustee decides to sell the property, your exemption claims assure that you will at least receive the value of your exemption from the sale. If the exemption covers the likely sales price, the trustee will not bother selling it. Rather, the property will be yours to keep.

What law decides which of your property is exempt? Most states have a single exemption system. However, a handful of states offer you two exemption systems—their regular state system and a second system created by federal law. California alone offers two state systems—system 1 and system 2. (For more on exemptions, see Section B2, below.)

1. What's in Your Bankruptcy Estate

Several categories of property make up your bankruptcy estate in a Chapter 7 bankruptcy.

Property you own and possess. Everything in your possession that you own—for example, a car, real estate, clothing, books, TV, stereo system, furniture, tools, boat, artworks, or stock certificates—is included in your bankruptcy estate. Property that you control or possess but that belongs to someone else is not part of your bankruptcy estate, because you don't have the right to sell it or give it away.

Property you own but don't possess. You can own something even if you don't have physical possession of it. For instance, you may own a car that someone else is using. Other examples include a deposit held by a stockbroker, a security deposit held by your landlord or a utility company, or a business you've invested money in.

Property you are entitled to receive. Property that you have a legal right to receive but haven't gotten yet when you file for bankruptcy is included in your bankruptcy estate. Common examples include:

- wages, royalties, or commissions you have earned but have not yet been paid
- a tax refund legally due you
- vacation or termination pay you've earned
- property you've inherited but not yet received from someone who has died
- proceeds of an insurance policy, if the death, injury, or other event that gives rise to payment has already occurred, and
- money owed you for goods or services you've provided ("accounts receivable").

Community property. If you live in a community property state, all property either spouse acquires during the marriage is ordinarily considered "community property," that is, owned jointly by both spouses. (The community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin, and—if you have a written community property agreement or trust—Alaska.) Gifts and inheritances received specifically by one spouse are the common

exceptions. If you're married and jointly file for bankruptcy, all the community property you and your spouse own, as well as all of each of your separate property, is considered part of your bankruptcy estate. If your spouse doesn't file, then your bankruptcy estate is the community property and your sole separate property.

Marital property in a non-community property state. If you are married and filing jointly, your bankruptcy estate includes all the property you and your spouse own together and separately. If you are filing alone for bankruptcy in a non-community property state (all states other than those listed above), your bankruptcy estate includes:

- your separate property (property that has only your name on a title certificate or that was purchased, received as a gift, or inherited by you alone), and
- half of the property that is jointly owned by you and your spouse, unless you own the property as tenants by the entirety.



“Tenancy by the entirety” property may be handled differently from other marital property in bankruptcy. This form of property ownership is available in certain states to married couples. Such property may be entitled to special protection from creditors under state law, and therefore in bankruptcy. If you have such property, consult a local bankruptcy lawyer before you file. (For more on tenancy by the entirety property, see Chapter 3, Section C2.)

Property you receive within 180 days after filing for bankruptcy. Most property you acquire or become entitled to after you file for bankruptcy isn't included in your bankruptcy estate. But there are a few exceptions. If you acquire or become entitled to the following items within 180 days after you file, you must amend your papers to include these items as part of your bankruptcy estate:

- property you inherit
- property from a marital settlement agreement or divorce decree, and
- death benefits or life insurance policy proceeds.

Property (revenue) generated by estate property. This type of property typically consists of the proceeds of contracts—such as those providing for royalties and commissions—that were in effect at the time

of the bankruptcy filing, but which were earned and received only after that date. For example, if you are a composer or author and receive royalties each year for a book that was written before you filed bankruptcy, those royalties may be collected by the trustee as property of your estate.

2. What Property You Can Keep

In Chapter 7 bankruptcy you can keep the property that is not in your bankruptcy estate, and also the property (or portion of property) that is in your bankruptcy estate but “exempt” under federal or state law.

a. Property That’s Not in Your Bankruptcy Estate

Property that is not in your bankruptcy estate is not “subject to the bankruptcy court’s jurisdiction.” That means the property can’t be taken by the bankruptcy trustee to pay your creditors under any circumstances. (See Section B1, above, for more on what’s in your bankruptcy estate.)

Many people are worried about preserving their pension or retirement account savings in bankruptcy. Here’s some good news. If you have a pension that is regulated by the federal Employment Retirement Income Security Act (ERISA), neither it nor its proceeds will be considered part of your bankruptcy estate. And even if your pension or retirement account is considered part of your bankruptcy estate because it doesn’t fall under ERISA control, it may still be exempt under your state’s law (or under the federal bankruptcy exemptions if the state where you file recognizes them).



To find out whether or not your pension is covered by ERISA, call the benefits coordinator on your job or the pension plan administrator.

b. Property That’s Protected by an Exemption

Bankruptcy is intended to give debtors a fresh start. As part of that fresh start, you are entitled to keep property that your state’s laws generally let debtors keep when sued by their creditors. This property can literally range from “the shirt on your back” to a million-dollar estate, depending

on which state you file in. In addition to the state exemption law, some states offer bankruptcy filers an alternative choice of exemptions—a list of exempt property found in the federal bankruptcy code. Those states are: Arkansas, Connecticut, Hawaii, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, Pennsylvania, Rhode Island, Texas, Vermont, Washington, and Wisconsin. Also, as mentioned earlier, California offers a choice of two state-law exemption systems.

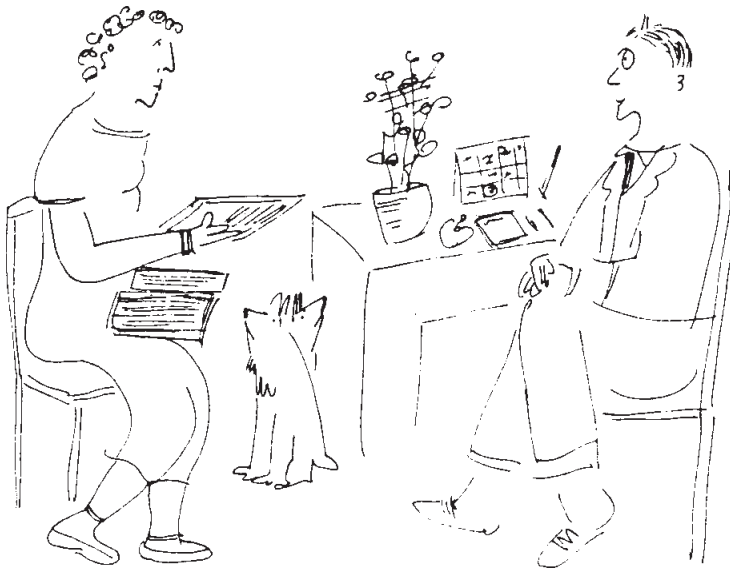
Under both the federal and state exemption systems, some types of property are exempt regardless of value. Other kinds of property are exempt up to a limit. For instance, cars are often exempt up to a certain amount—typically around \$2,500. An exemption limit means that any “equity” above the limit is considered nonexempt. (Your equity is the amount you would get to keep if you sold the property and paid off any debt secured by the property.) The trustee can take the property and sell it, give you the exemption amount (theoretically so you can replace the item that is sold), and distribute the remainder to your creditors. Of course, as a practical matter, the trustee won’t take and sell property unless the nonexempt equity will produce a reasonable amount of money after the costs of storage and sale are deducted.

Because of how exemptions work in most states, very few people lose property in Chapter 7 bankruptcy. However, if you have the kind of property listed below—and you don’t want to lose it—you should pay close attention to your state’s exemptions (see Appendix B):

- real estate other than your home (see Chapter 4 for residential property exemptions)
- substantial equity in a newer-model motor vehicle
- expensive musical instruments unrelated to a job or business
- stamp, coin, and other collections
- cash, deposit accounts, stocks, bonds, and other investments
- business assets
- valuable artwork
- expensive clothing and jewelry, or
- antiques.

c. Determining Which Exemption Applies

Understanding which of your property items are exempt is key to understanding what you can keep in bankruptcy. The simple way to get this understanding is to identify only those property items that you really care about keeping, and then use our exemption chart in Appendix B to see whether they qualify for an exemption. You can also be more systematic by making a list of everything in your bankruptcy estate and then matching up your property with the exemption list (or lists) available to you in your state. If you need help compiling this list, take a look at the checklist of common property items set out below. If you're married and would be filing jointly, enter all property owned by you and your spouse.



PERSONAL PROPERTY (SCHEDULE B)**Cash on hand (include sources)**

- ☐ In your home
- ☐ In your wallet
- ☐ Under your mattress

Deposits of money (include sources)

- ☐ Bank account
- ☐ Brokerage account (with stockbroker)
- ☐ Certificates of deposit (CD)
- ☐ Credit union deposit
- ☐ Escrow account
- ☐ Money market account
- ☐ Money in a safe deposit box
- ☐ Savings and loan deposit

Security deposits

- ☐ Electric
- ☐ Gas
- ☐ Heating oil
- ☐ Security deposit on a rental unit
- ☐ Prepaid rent
- ☐ Rented furniture or equipment
- ☐ Telephone
- ☐ Water

Household goods, supplies, and furnishings

- ☐ Antiques
- ☐ Appliances
- ☐ Carpentry tools
- ☐ China and crystal
- ☐ Clocks
- ☐ Dishes
- ☐ Food (total value)
- ☐ Furniture (list every item; go from room to room so you don't miss anything)
- ☐ Gardening tools
- ☐ Home computer (for personal use)
- ☐ Iron and ironing board
- ☐ Lamps
- ☐ Lawn mower or tractor
- ☐ Microwave oven
- ☐ Patio or outdoor furniture
- ☐ Radios
- ☐ Rugs
- ☐ Sewing machine
- ☐ Silverware and utensils
- ☐ Small appliances
- ☐ Snow blower
- ☐ Stereo system
- ☐ Telephone and answering machines

- ☐ Televisions
- ☐ Vacuum cleaner
- ☐ Video equipment (VCR, camcorder)

Books, pictures, and other art objects; stamp, coin, and other collections

- ☐ Art prints
- ☐ Bibles
- ☐ Books
- ☐ Coins
- ☐ Collectibles (such as political buttons, baseball cards)
- ☐ Family portraits
- ☐ Figurines
- ☐ Original art works
- ☐ Photographs
- ☐ Records, CDs, audiotapes
- ☐ Stamps
- ☐ Videotapes

Apparel

- ☐ Clothing
- ☐ Furs

Jewelry

- ☐ Engagement and wedding rings
- ☐ Gems
- ☐ Precious metals
- ☐ Watches

Firearms, sports equipment, and other hobby equipment

- ☐ Board games
- ☐ Bicycle
- ☐ Camera equipment
- ☐ Electronic musical equipment
- ☐ Exercise machine
- ☐ Fishing gear
- ☐ Guns (rifles, pistols, shotguns, muskets)
- ☐ Model or remote-controlled cars or planes
- ☐ Musical instruments
- ☐ Scuba diving equipment
- ☐ Ski equipment
- ☐ Other sports equipment
- ☐ Other weapons (swords and knives)

Interests in insurance policies

- ☐ Credit insurance
- ☐ Disability insurance
- ☐ Health insurance
- ☐ Homeowners' or renters' insurance

- ☐ Term life insurance
- ☐ Whole life insurance

Annuities**Pension or profit sharing plans**

- ☐ IRA
- ☐ Keogh
- ☐ Pension or retirement plan
- ☐ 401(k) plan

Stock and interests in incorporated and unincorporated companies**Interests in partnerships**

- ☐ Limited partnership interest
- ☐ General partnership interest

Government and corporate bonds and other investment instruments

- ☐ Corporate bonds
- ☐ Municipal bonds
- ☐ Promissory notes
- ☐ U.S. savings bonds

Accounts receivable

- ☐ Accounts receivable from business
- ☐ Commissions already earned

Family support

- ☐ Alimony (spousal support, maintenance) due under court order
- ☐ Child support payments due under court order
- ☐ Payments due under divorce property settlement

Other debts owed you where the amount owed is known and definite

- ☐ Disability benefits due
- ☐ Disability insurance due
- ☐ Judgments obtained against third parties you haven't yet collected
- ☐ Sick pay earned
- ☐ Social Security benefits due
- ☐ Tax refund due under returns already filed
- ☐ Vacation pay earned
- ☐ Wages due
- ☐ Workers' compensation due

Any special powers that you or another person can exercise for your benefit, other than those listed under "real estate"

- ☐ A right to receive, at some future time, cash, stock, or other personal property placed in an irrevocable trust

- ☐ Current payments of interest or principal from a trust
- ☐ General power of appointment over personal property

An interest in property due to another person's death

- ☐ Any interest as the beneficiary of a living trust, if the trustor has died
- ☐ Expected proceeds from a life insurance policy where the insured has died
- ☐ Inheritance from an existing estate in probate (the owner has died and the court is overseeing the distribution of the property), even if the final amount is not yet known
- ☐ Inheritance under a will that is contingent on one or more events occurring, but only if the owner has died

All other contingent claims and claims where the amount owed you is not known, including tax refunds, counterclaims, and rights to setoff claims (claims you think you have against a person, government, or corporation, but you haven't yet sued on)

- ☐ Claims against a corporation, government entity, or individual
- ☐ Potential tax refund on a return that is not yet filed

Patents, copyrights, and other intellectual property

- ☐ Copyrights
- ☐ Patents
- ☐ Trade secrets
- ☐ Trademarks
- ☐ Trade names

Licenses, franchises, and other general intangibles

- ☐ Building permits
- ☐ Cooperative association holdings
- ☐ Exclusive licenses
- ☐ Liquor licenses
- ☐ Nonexclusive licenses
- ☐ Patent licenses
- ☐ Professional licenses

Automobiles and other vehicles

- ☐ Car
- ☐ Minibike or motor scooter
- ☐ Mobile or motor home if on wheels
- ☐ Motorcycle
- ☐ Recreational vehicle (RV)
- ☐ Trailer
- ☐ Truck
- ☐ Van

Boats, motors, and accessories

- ☐ Boat (canoe, kayak, rowboat, shell, sailboat, pontoon, yacht)
- ☐ Boat radar, radio, or telephone
- ☐ Outboard motor

Aircraft and accessories

- ☐ Aircraft
- ☐ Aircraft radar, radio, and other accessories

Office equipment, furnishings, and supplies

- ☐ Artwork in your office
- ☐ Computers, software, modems, printers
- ☐ Copier
- ☐ Fax machine
- ☐ Furniture
- ☐ Rugs
- ☐ Supplies
- ☐ Telephones
- ☐ Typewriters

Machinery, fixtures, equipment, and supplies used in business

- ☐ Military uniforms and accoutrements
- ☐ Tools of your trade

Business inventory**Livestock, poultry, and other animals**

- ☐ Birds
- ☐ Cats
- ☐ Dogs
- ☐ Fish and aquarium equipment
- ☐ Horses
- ☐ Other pets
- ☐ Livestock and poultry

Crops—growing or harvested**Farming equipment and implements****Farm supplies, chemicals, and feed****Other personal property of any kind not already listed**

- ☐ Church pew
- ☐ Health aids (such as a wheelchair or crutches)
- ☐ Hot tub or portable spa
- ☐ Season tickets

Match exemptions with property. Now that you've got a handle on what's included in your property, find the exemptions for your state in Appendix B. For some types of property—typically, household furnishings, health aids, and clothing—there likely will be no dollar limit. This means that any property that reasonably fits within the exemption category is exempt, regardless of its value. For other types of property—typically, cars and tools of the trade—there will be a limit to the value you can exempt. And, in a few states, you can use what's known as a wild card exemption—an amount that you can apply to any type of property, in addition to any other exemption. For example, if your state has a wild card exemption of \$1,000, a car exemption of \$2,000, and your car is worth \$3,000, you can add the wild card exemption (\$1,000) to the car exemption (\$2,000) to fully exempt the \$3,000 car.

If you are filing in a state that also offers the federal bankruptcy exemptions—the exemption charts tell you this right under your state's

name—you should also check the federal exemption chart at the end of the appendix. Items that aren't exempt under your state's exemptions may be exempt under the federal system, and vice versa. However, you must pick one system or the other to use in your bankruptcy—no mix and match allowed.

For California filers, you may choose system 1 (the regular state exemptions) or system 2, a state list that is derived from the federal exemptions but that differs in important particulars. You can't use the federal exemptions.

Value of your property. Now that you have a general understanding of how the exemptions work in the state where you are filing, use the property chart to enter values for each item where value is relevant—that is, don't bother valuing your furniture if there is no limit to the exemption amount for this category.

It's easy to enter a dollar amount for your cash and most investments. If you own a car, start with the low Kelley Blue Book price. If the car needs repair, reduce the value by the amount it would cost you to fix the car. You can find the Kelley Blue Book at a public library or online at www.kbb.com. For most other property, estimate what you could sell it for at a garage sale or through a classified ad. As long as your estimates are reasonable, the lower the value you place on property, the more of it you will probably be allowed to keep under your state's exemption laws.

If you are filing separately and own an item of property jointly with someone other than a spouse with whom you would file for bankruptcy, reduce the value of the item to reflect only what you own. For example, you and your brother jointly bought a music synthesizer worth \$10,000. Your ownership share is 40% and your brother's is 60%. You'd list the value of the property you own at \$4,000, not \$10,000.

If you are married and filing separately in a community property state, include the total value of all the community property as well as the value of your separate property. See Section B1 above.

If you are married, and you own the property with your spouse as tenants by the entirety and are filing separately, your ownership interest may be different than 50% for purposes of computing your exemption.



See a lawyer if you have tenancy by the entirety property and need to know what percentage of your property you can claim as exempt. (For more on tenancy by the entirety property, see Chapter 3, Section C2.)

Equity in your property. If the property is collateral for a secured debt—either the loan taken out to purchase the item or a separate loan for which you pledged the property as collateral—write down the amount of the secured claims next to the value of the property. Continuing with the above example, if you and your brother financed the purchase of the synthesizer and gave the seller the right to repossess it if you default, the amount you still owe is the secured claim.

Your “equity” is the amount you would get to keep if you sold the property. It’s the value of the property minus the amount of any secured claims. Equity is an important concept in determining if your property is exempt.

Example: You bought a new car two years ago. You made a \$3,000 down payment and financed the rest, \$15,000 over five years at 6%, with the dealer. The car’s value is now \$11,500, and you still owe \$9,500. Your equity is \$2,000 (\$11,500 minus \$9,500).

If you own a lot of property which you’re worried about losing in a Chapter 7 bankruptcy, you may still seriously consider Chapter 7 bankruptcy if any of the following are true:

- You are able to sell some nonexempt property before you file. You can use the proceeds to buy exempt property that will help you make a fresh financial start or to pay debts that won’t be discharged by the bankruptcy. If you choose to pay some debts, you must delay filing for bankruptcy until at least 90 days after making the payment, or one year if the payment was to a relative, close friend, or business associate.



Don’t defraud your creditors. Your local bankruptcy court may consider this sort of planning an attempt to defraud your creditors that justifies a dismissal of your bankruptcy. The only sure way to find out in advance what is and isn’t permissible in your area is to ask a bankruptcy attorney who is familiar with your local bankruptcy court’s views on this.

- Your debts are so high that you're willing to give up some property in exchange for their discharge.
- You can raise enough cash after you file to buy the nonexempt property you want back from the trustee.
- The property will be difficult or expensive for the trustee to sell and he is likely to abandon it (that is, give up his or her claim to it on behalf of the creditors). For example, used furniture, unimproved real estate in a depressed area, and damaged cars are prime candidates for abandonment because it's difficult to make any profit from their sale.

MOVING TO A STATE WITH MORE GENEROUS EXEMPTIONS

Some debtors take a look at the list of exemptions for their state and are horrified at how short the list is or how low the value of the items are. Their state isn't merely ungenerous—it seems downright cruel.

One couple tried to get around this problem by selling their assets, moving to Florida, buying a new house with the cash (Florida has an unlimited homestead exemption) and then filing for bankruptcy over a year after buying the house. The bankruptcy court, however, declared the purchase fraudulent and denied them the homestead exemption.

So, be careful if you plan to move to improve your lot.

C. What Happens to Property That Secures a Debt

“Secured debts” are debts linked to specific items of property (sometimes called “collateral” or “security”). The property guarantees payment of the debt. If the debt isn't paid, the creditor can take the property or force its sale to pay off the debt. You take on some secured debts voluntarily—such as a mortgage or car loan. Others are imposed on you against your will—like tax liens and liens imposed on property to enforce a judgment.

Chapter 7 bankruptcy has a different effect on secured debts than on other kinds of debts, because a secured debt consists of two parts:

- **Personal liability.** The first part is no different for a secured or an unsecured debt: In both instances you have personal liability for the

debt, which obligates you to pay the debt to the creditor. Bankruptcy wipes out this personal liability if the debt is otherwise dischargeable. Once your personal liability is eliminated, the creditor cannot sue you to collect the debt.

- **Security interest.** The second part of a secured debt is the creditor's legal claim (lien or security interest) on the property that is collateral for the debt. A lien gives the creditor the right to repossess the property or force its sale if you do not pay the debt. During Chapter 7 bankruptcy, you may be able to eliminate, or at least reduce, certain types of liens on secured property. However, other types of liens—notably tax liens—remain on the property after bankruptcy. So, even if you wipe out your personal liability for the taxes, the taxing authority can enforce the lien against your property.

If you're behind on payments to a secured creditor, Chapter 7 bankruptcy probably won't help you. The creditor will ask the court to lift the automatic stay so that the creditor can begin or resume repossession proceedings. (For more on the automatic stay, see Chapter 1, Section B.) If you want to keep the property, you'll need to reinstate the loan outside of bankruptcy—that is, make up the missed payments and resume making your regular payments.

If your lender has already accelerated the loan—declared the entire balance due—and won't let you reinstate it, you can file for Chapter 13 (assuming you meet the eligibility requirements detailed in Chapter 2, Section B). You can make up the missed payments in your plan as long as you make the regular payments called for under your original agreement. Also, in Chapter 13, you can reduce the total amount of your payments to the property's actual value.

If you are current on your payments on a secured debt and you file for Chapter 7 bankruptcy, you must let the creditor know whether you want to give up the property in exchange for wiping out the debt, or if you want to keep the property through one of the methods available in bankruptcy. We describe below how to give up or keep secured property in Chapter 7 bankruptcy.

1. Surrender the Property

Surrendering secured property in a Chapter 7 bankruptcy simply means allowing the creditor to “repossess” (take) the item or foreclose on the lien. It completely frees you from the debt. The lien is satisfied by your surrender of the property, and your personal liability is discharged by the bankruptcy.

The advantage of surrendering property is that it is a quick and easy way to completely rid you of a secured debt. The disadvantage, obviously, is that you lose the property.

2. Eliminate Liens in Bankruptcy

It may be possible during your Chapter 7 bankruptcy case to eliminate or reduce a lien that attaches to an item of secured property. If you can eliminate, or “avoid,” a lien, you get to keep the property free and clear, without paying anything more to the creditor.

Lien avoidance has several important restrictions, however:

- You must be able to claim the property affected by the lien as exempt.
- The lien must be either a judicial lien (a lien based on a court judgment) or something called a “nonpossessory nonpurchase-money security interest,” which is a lien you gave a creditor by pledging your existing property (such as your stereo system) to secure a new debt. A judicial lien may be “avoided” (wiped out) on any type of property, including real estate, to the extent the lien “impairs an exemption.” A nonpossessory nonpurchase-money security interest can be avoided only on the following types of property, assuming the property is exempt:
 - ✓ household furnishings, household goods, clothing, appliances, books, musical instruments, or jewelry
 - ✓ health aids professionally prescribed for you or a dependent
 - ✓ the first \$5,000 of a lien attaching to animals or crops held primarily for your personal, family, or household use, or
 - ✓ the first \$5,000 of a lien attaching to tools used in your trade.
- You must have owned the property before the lien was “fixed” on it. This will always be the case with nonpossessory nonpurchase-money

security interests. And it's usually the case with judicial liens, where you've been sued, and then the person obtains a judgment and records it against your property. If a lien (such as a promissory note for cash secured by an expensive motor vehicle) is recorded just before ownership title changes on the property, however, the lien would be fixed before you owned the property. This unusual situation is most likely to arise in the context of a divorce.

3. Redeem the Property

In a Chapter 7 bankruptcy you have the right to “redeem” property—that is, to buy it back from the creditor, rather than have it taken by the creditor and sold to someone else. You pay the creditor the property's current market value, usually in a lump sum, and in return the lien is eliminated. You then own the property free and clear.



How do you pay to redeem property? All cash and other property that you get after filing a Chapter 7 bankruptcy (except for inheritances, insurance proceeds, and proceeds from marital settlement agreements occurring within 180 days after filing, and proceeds earned on property of the estate such as royalties and commissions) is not property of the bankruptcy estate. It can be used to redeem property and negotiate with the trustee. (For more on what's not in your bankruptcy estate, see Section B, above.)

Redemption is a great option if you owe more than the property is worth. The creditor must accept the current value of the item as payment in full. The disadvantage is that, generally, redemption requires immediate lump-sum payment of the value of the item. (Much the same remedy is available in a Chapter 13 case, except that you can pay off the property's value over the life of your plan rather than come up with a lump sum.)

You have the right to redeem property in a Chapter 7 bankruptcy only if all of the following are true:

- The debt is a consumer debt on goods used for personal or household purposes. This means you cannot redeem property that secures business debts.

- The property is tangible personal property. “Personal property” is all property that isn’t real estate. “Tangible property” is property you can touch, such as a car or stereo system. (Examples of intangible personal property include investments, like stocks and bonds, or intellectual property rights, like patents, trademarks, and copyrights.)
- The property is either claimed as exempt or else abandoned by the trustee.

4. Reaffirm a Debt

When you “reaffirm” a debt, you and the creditor draw up an agreement that sets out the amount you owe and the terms of the repayment. In essence, this creates a brand-new debt, although you have a right to the same terms as set out in the original contract. In return, you get to keep the property as long as you keep current on your payments. Both the creditor’s lien on the collateral and your personal liability under the contract survive bankruptcy intact.

Reaffirmation can be used when lien avoidance or redemption is unavailable or impractical. It provides a sure way to keep property, as long as you abide by the terms of the reaffirmation agreement. But because reaffirmation leaves you personally liable, there is no way to walk away from the debt, even if the property becomes worthless or you simply decide you no longer want it. (Remember, you can’t file another Chapter 7 bankruptcy to get rid of the personal liability for six years from the date you filed this one. For more on when you can file Chapter 7 bankruptcy, see Chapter 2.)



Reaffirmation should be a last choice, not a first. Use it

primarily to keep property you can’t be without, and only if you have good reason to believe you’ll be able to pay off the balance still owed the creditor. Many people use reaffirmation to keep a car when there is no other way to hold onto it in bankruptcy.

5. Keep the Property Without Reaffirming or Redeeming

Some Chapter 7 bankruptcy courts will let you to keep secured property as long as you remain current on your payments under your contract

with the creditor. If you fall behind, the creditor can take the property, but your personal liability for the debt is wiped out by the bankruptcy. This method is often referred to as “informal reaffirmation” or “informal repayment.” (Be aware that not all courts allow this method, but the trend is toward permitting it.)

Informal repayment can be used when lien avoidance or redemption is not available. It allows for payments in installments rather than a lump sum, although the amount you’ll have to pay to ultimately get title to the property is the contract amount rather than the actual value of the property (as in redemption). Unlike formal reaffirmation, informal repayment leaves you the option of walking away from a debt without being personally liable for the balance owed.

Courts in the following states authorize this “retain and pay” option: Alaska, Arizona, Arkansas (Western District), California, Colorado, Connecticut, Hawaii, Idaho, Kansas, Maryland, Montana, Nevada, New Mexico, New York, North Carolina, Ohio (Northern District), Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee (Western District), Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming.



Now is the time to complete the Chapter 5 questions on the “Should I File for Bankruptcy?” checklist in Appendix A. ■



Can I Keep My Credit Cards?

- A. Your Balance Is Zero 6/2
- B. You Owe Money But Are Current 6/4
- C. You Are in Default 6/6
- D. Your Creditors Claim Fraud 6/6

What will happen to your credit cards when you file for bankruptcy depends largely on the current status of your account, and to a lesser degree on the creditor. For this discussion, consider that your credit cards will fall into three possible categories:

- cards on which you have zero balance—that is, you’re all paid up (see Section A)
- cards on which you have a balance but are current—that is, you make at least the minimum payment each month (see Section B), and
- cards on which you are in default—that is, you haven’t made any payments in a while (see Section C).

We’ll also talk about the situation where credit card companies try to force you to pay your debts by claiming that you intentionally ran up charges, with no intention of repaying them (see Section D).

A. Your Balance Is Zero

On your bankruptcy papers, you’ll have to list all the people and business to whom you currently owe money. These are called your creditors. If you have a balance of zero on a credit card, you don’t currently owe the card issuer any money and you don’t have to list it on your bankruptcy papers. This means you might come through bankruptcy—Chapter 7 or Chapter 13—still owning that credit card.

Notice that I did not say that you will definitely come through bankruptcy still owning that credit card. It’s possible that the bankruptcy trustee will confiscate your credit cards, ask you about the creditors with whom you have a zero balance, or demand that you write to them and tell them about your bankruptcy. This is more likely to happen in a Chapter 13 case, where the trustee must supervise your finances for three to five years, than in a Chapter 7 case, where the trustee won’t care about debts you incur after filing.

It’s also possible that a creditor will find out about your bankruptcy from some source other than you or the bankruptcy court—namely, a credit bureau. Sometimes, a credit bureau automatically sends a bankruptcy notice to all the creditors it has on file for the person holding the card.

Example: You file for bankruptcy and include the following debts, among others: BigBank Visa, MediumBank MasterCard, and LittleBank Visa. Your balance on your TinyBank MasterCard is \$0, so you don't include that creditor on your bankruptcy papers. BigBank, MediumBank, and LittleBank each report to the credit bureaus that your accounts are in bankruptcy. The credit bureaus may search their databases for each account on file for you and send a bankruptcy notice to your creditors that have not reported your accounts in bankruptcy. This means that TinyBank will learn of your filing even though you didn't list it as a creditor on your bankruptcy papers.



Even if a creditor isn't sent a bankruptcy notice by a credit bureau, the creditor still may learn of your bankruptcy. Creditors with whom you do business are allowed to check the information on file about you at a credit bureau and often do, especially if they are considering increasing your credit limit or are worried that you may default on your account. A creditor that checks will see your bankruptcy and all other information in your report. The creditor may decide to terminate your credit, even though you don't owe that business a penny, on the ground that you are

no longer a good credit risk. There is nothing you can do to stop this, short of begging that your account be reopened. You might emphasize that you can't file for Chapter 7 bankruptcy again for six years, meaning that you are quite a good risk. But if your pleas are ignored, don't get too worked up over it. There are other ways to get a credit card, if you really think you need one. (See Chapter 9.)

PROBLEMS WITH PREFERENTIAL PAYMENTS

Don't pay off one credit card just before you file bankruptcy, while ignoring others.

When you file for bankruptcy, you must indicate on your papers all of your recent financial transactions. The bankruptcy trustee is looking to see if you favored one creditor at the expense of others. Bankruptcy law frowns on payments to a creditor made shortly before bankruptcy if it appears that the payments favored that creditor over your other unsecured creditors. These "eve of bankruptcy" payments are called "preferences." The trustee can recover preferences from the creditor you paid and use the money for the benefit of all your creditors, not just the creditor who received the payment.

There are exceptions to this rule for business debtors who make the payment in the normal course of their business, and for payments made on regular ongoing expenses like your mortgage or utilities—as opposed to one-time expenses, like paying off a delinquent bill.

In general, a preference exists when you pay a total of \$600 or more to any creditor within the 90 days before you file for bankruptcy. (If you make payments to a creditor who is close to you—for example, a friend, relative, or business associate—a preference is a total of \$600 or more paid within the year before filing.)

So the bottom line is this: If you want to keep a credit card by paying off the balance before filing bankruptcy, and the payments total \$600 or more, you must wait at least 91 days after your last payment before filing. There is still no guarantee you will get to keep the card.

B. You Owe Money But Are Current

If you owe money on a credit card, but have managed to eke out at least a minimum payment each month, you will have to list this creditor on

your bankruptcy papers even though you aren't behind. Your bankruptcy—Chapter 7 or Chapter 13—may come as a great surprise to the creditor. In fact, credit card issuers have recently lamented the increase in “surprise” bankruptcies—cases filed by people not in default.

If you file a Chapter 7 bankruptcy and want to keep your credit card, you probably can do so by offering to sign a reaffirmation agreement with the credit card issuer. In a reaffirmation agreement, you agree to repay the balance in full, as if you never filed for bankruptcy.

Before you do this, ask yourself why you would take such a step. For most people, the purpose of filing for bankruptcy is to get rid of debts, not to emerge still owing money. Admittedly, some people choose to file, knowing that they won't be able to eliminate certain debts. But even in that situation, it almost never makes sense to come out of bankruptcy owing on a credit card you had before you filed. More likely, you will come out of bankruptcy still owing taxes or a student loan. If you want to have a credit card after bankruptcy, chances are very good that you'll be able to get one (see Chapter 9)—but one that starts with a zero balance, not with the amount you owed before you filed.

It's possible that when you file a Chapter 7 bankruptcy, the credit card issuer will ask you to sign a reaffirmation agreement even if you intend to wipe out the debt. The creditor may offer tempting terms—a reduction in the interest rate, a reduction of the balance you owe, or an increase in your line of credit. But you should resist. To sign a reaffirmation agreement would probably defeat a major, if not the single, reason you filed—to get rid of your credit card debt.

If the creditor gets insistent or starts claiming that you incurred the credit card debt fraudulently, you still have options. (See Section D, below.)

If you file for Chapter 13 bankruptcy, in your plan you will propose to repay your unsecured creditors, including your credit card issuers, some percentage of what you owe. Chapter 13 plans are sometimes referred to by this percentage—for example, “this couple filed a 55% plan.” (Remember that unlike credit card debts, some types of debts, including “priority debts” and “secured debts,” must be repaid in full,

even in Chapter 13. For more on secured debts, see Chapter 5.) In most cases, if you propose to pay less than 100% of what you owe on a card, the creditor will cancel your account. And the trustee may confiscate your card anyway.

C. You Are in Default

Now let's consider what might happen to your credit card if you are in default on your payments when you file for bankruptcy. The likely outcome is, in fact, fairly similar to the outcome for people who are current but owe a balance, as discussed in Section B, above. But there are two big differences.

First, your creditors won't be surprised that you file. With more than one million people filing bankruptcy each year—discharging billions of dollars of credit card debt alone—bankruptcy filings are a frequent reality for credit card issuers. They may not like it, but they have to deal with it.

This dislike highlights the second difference. If you file for bankruptcy when you are in default on a credit card, the creditor may aggressively take steps to keep you from discharging the debt. The creditor will first ask you to voluntarily sign a reaffirmation agreement. If you don't agree—and you shouldn't—the creditor might start playing hardball, as described in Section D, below.

D. Your Creditors Claim Fraud

In some cases, credit card issuers try to keep you from discharging your credit card debt by claiming that you intentionally ran up the charges while knowing you wouldn't be repaying them.



This discussion applies to Chapter 7 bankruptcy only. In a Chapter 13 case, unlike Chapter 7, credit card issuers can't oppose discharge of credit card debts on the basis that you never intended to repay them.

Several types of debts can survive Chapter 7 bankruptcy. (See Chapter 3 for a full discussion.) One of these is a debt that you create by

fraud. However, credit card debts survive bankruptcy only if the creditor affirmatively and successfully raises its fraud claim in the bankruptcy court by filing an objection.

To object to the discharge of a debt on the basis of fraud, the credit card company must file something called a “Complaint to Determine Dischargeability of a Debt” as a part of your bankruptcy case. The filing of the complaint starts a regular lawsuit that proceeds as a part of your bankruptcy case. You have to file a formal response to the complaint. If you don’t, you could lose the case by default, and have the court declare the debt to be nondischargeable.

Bankruptcy law specifies two situations in which credit card fraud is presumed:

- You ran up debts of more than \$1,150 for luxury goods or services within the 60 days before you filed for bankruptcy.
- You took out cash advances totaling more than \$1,150 within the 60 days before you filed for bankruptcy.

In any other situation, there is no presumption of fraud, no matter what the credit card issuer claims. Still, this doesn’t mean all other behavior is acceptable. If a credit card issuer pushes its claim and gets a case before the bankruptcy court, the court will be particularly inclined to find your behavior fraudulent if you did any of the following:

- filed for bankruptcy only a short time after incurring the charges
- ran up a significant debt after consulting an attorney about your financial situation
- incurred many credit card charges under \$50 to avoid preclearance of the charge by the credit card issuer at the point you reached your credit limit
- made charges after your card issuer had ordered you to return the card or sent past due notices
- changed your pattern of using the card
- made charges after you were obviously insolvent—with no job, income, or savings
- made charges for luxuries, or
- made multiple charges on the same day.

Credit card issuers rarely win fraud cases when they go before a judge. Judges are finding that credit card issuers usually send pre-approved cards without doing an adequate credit check. Judges also discover that cards are issued to all applicants, no matter what number is entered into the household income blank on the credit application. Finally, judges are finding that debtors are using the cards for the precise reasons the creditors encouraged them to use the cards—“when you’re short on cash,” “to take that much-deserved vacation,” “to consolidate other debts,” or “to buy expensive gifts.” Ultimately, most judges rule in these cases that credit card issuers must assume responsibility for their own neglectful behavior and cannot claim fraud when someone on the financial edge uses a card for precisely the reasons anticipated by the issuer.



Now is the time to complete the Chapter 6 questions on the “Should I File for Bankruptcy?” checklist in Appendix A. ■



Will I Lose My Job, Children, Freedom, or Self-Respect?

- A. Will I Lose My Job? 7/2
- B. Can I Be Discriminated Against? 7/3
- C. Will I Lose Custody of My Children? 7/4
- D. Will I Lose My Freedom? 7/4
- E. Will I Lose My Self-Respect? 7/6

For many people, the thought of filing for bankruptcy raises a number of troubling questions. Many of these have to do with eliminating debts. (Those are answered in Chapter 3.) Other questions concern the potential loss of property. (Those are addressed in Chapters 4 and 5.)

But many of the questions go beyond debts and assets and hit at the core of what it means to be a member of our society—earning a living, bringing up your children, and keeping your freedom and self-respect.

A. Will I Lose My Job?

The government can't discriminate against you for having filed for bankruptcy. If you work for a local, state, or government agency, you cannot be fired. Nor can your public employer take other punitive action against you, such as demote you, reduce your salary, or take away responsibilities. Private employers can't fire you or punish you solely because you filed for bankruptcy.

In fact, it's rare that an employer ever finds out about a Chapter 7 bankruptcy filing. About the only time this might happen is if a creditor has sued you, obtained a judgment against you, and started garnishing your wages. The bankruptcy will stop the wage garnishment, and your employer will be notified about it. In such a situation, your employer (or at least the payroll department) already knew you were having financial problems and will probably welcome the bankruptcy as a way for you to take affirmative steps to put your problems behind you.

On the other hand, if you file for Chapter 13 bankruptcy, your employer is likely to learn of your bankruptcy case. This is because, if you have a regular job with regular income, the bankruptcy judge may order your Chapter 13 payments to be automatically deducted from your wages and sent to the bankruptcy court. This is called an "income deduction order."

You may not like the idea of the income deduction order, but the bankruptcy court is likely to deny your Chapter 13 plan if you refuse to comply with it. And realize that the order will probably make it easier for you to complete your plan. The success rate of Chapter 13 cases is higher

for debtors with income deduction orders than for debtors who pay the trustee themselves.

Many jobs require you to get a security clearance. If you are a member of the armed forces or an employee of the CIA, FBI, another government agency, or a private company that contracts with the government, you may have a security clearance. Do you risk losing your security clearance if you file for bankruptcy? Probably not—in fact, the opposite may be true. According to credit counselors for the military and the CIA, a person with financial problems—particularly someone with a lot of debt—is a high risk for being blackmailed. By filing for bankruptcy and getting rid of the debts, you substantially lower that risk. Bankruptcy usually works more in your favor than to your detriment.

WHAT ABOUT FUTURE JOBS?

While the Bankruptcy Code expressly prohibits private employers from firing you, it is unclear whether private employers can refuse to hire you because you went through bankruptcy. It is clear that government employers can't deny you a job just because you filed for bankruptcy.

A private employer is likely to find out about a past bankruptcy by doing a credit check. The federal Fair Credit Reporting Act requires potential employers to get your written authorization before checking your credit report. If you're asked to give this authorization, consider speaking candidly about what he or she will find in your file. Honesty up front about problems that are truly behind you may outweigh the bankruptcy filing itself.

B. Can I Be Discriminated Against?

Federal, state, and local governmental units can't legally discriminate against you solely because you filed for bankruptcy. This includes denying, revoking, suspending, or refusing to renew a license, permit, charter, franchise, or other similar grant. Judges interpreting this law have ruled that the government cannot:

- deny or terminate public benefits
- deny or evict you from public housing
- deny or refuse to renew your state liquor license

- exclude you from participating in a state home mortgage finance program
- withhold your college transcript
- deny you a driver's license
- deny you a contract, such as a contract for a construction project, or
- exclude you from participating in a government-guaranteed student loan program.

In general, once any government-related debt has been discharged, all acts against you that arise out of that debt must also end. If, for example, you lost your driver's license because you didn't pay a court judgment that resulted from a car accident, you must be granted a license once the debt is discharged. If the debt wasn't discharged, however, you can still be denied your license until you pay up.

Prohibitions against private discrimination aren't as broad as prohibitions against government discrimination. As mentioned above, private employers may not fire you or punish you because you filed for bankruptcy. Other forms of discrimination in the private sector, however, such as denying you rental housing, a surety bond, or withholding a college transcript, are legal.

C. Will I Lose Custody of My Children?

There are no reported cases from any state of a parent losing custody because he or she filed for bankruptcy. Bankruptcy and divorce (or separation) are so often related these days that one frequently follows the other. Bankruptcy judges are becoming experts on family law matters, and family law judges are becoming experts in bankruptcy. Don't worry about your bankruptcy affecting your custody status. Keep in mind, however, that bankruptcy does not relieve you of your child support and alimony obligations, past or present.

D. Will I Lose My Freedom?

We Americans are used to some basic freedoms, and many people fear the loss of those freedoms if they file for bankruptcy. Relax. Except in some unusual cases, this is just not going to happen.

Can I go to jail? Filing for bankruptcy is not considered a crime. However, you must sign your bankruptcy papers under “penalty of perjury,” swearing that everything in them is true. If you deliberately commit bad acts, such as failing to disclose property, omitting material information about your financial affairs, unloading nonexempt assets just before filing, or using a false Social Security number (to hide your identity as a prior filer), you can be prosecuted for fraud.

While such prosecution has been rare in the past, it’s on the rise all across the country. A debtor in Massachusetts went to jail for failing to list on his bankruptcy papers his interest in a condominium and \$26,000 worth of jewelry. Another Massachusetts debtor is serving time for listing her home on her bankruptcy papers as worth \$70,000 when it had been appraised for \$116,000. An Alaska debtor was jailed for failing to disclose buried cash and diamonds. A Pennsylvania debtor omitted from her papers \$50,000 from a divorce settlement and was sentenced to some time in prison.

The message is simple: Bankruptcy is geared towards the honest debtor who inadvertently gets in too deep and needs the help of the bankruptcy court to get a fresh start. A bankruptcy judge will not help someone who has played fast and loose with creditors or tries to do so with the bankruptcy court. If you lie, hide, or cheat, it may come back to haunt you worse than your current debt crisis does.

Can I move? You are free to change your residence after you file. Just be sure to send the trustee a change of address form if your case is still open. If your move involves selling your house and you’ve filed a Chapter 13 bankruptcy, the trustee may want to use proceeds of the sale to pay off your creditors.

Can I change jobs? You can certainly change jobs while your bankruptcy case is pending, and after it ends. If you’ve filed a Chapter 13 case, be sure to tell the trustee so he or she can transfer the income deduction order.

Can I get divorced? No one can force you to stay married, not even a bankruptcy judge. If you’ve filed for Chapter 7 bankruptcy and want to end your marriage, go ahead. Your bankruptcy case will probably end long before your divorce case does.



It often makes sense to wait until a divorce is completed before filing for bankruptcy.

Your personal debt situation will be much clearer after your divorce becomes final.

If you've filed a Chapter 13 case with your spouse, you may face some complications if you want to continue your case and get divorced. Bankruptcy law states that you must be a married couple to be eligible to file a joint case. If you divorce, you are no longer eligible to file (or maintain) a joint Chapter 13 case, at least in theory. The trustee could file a motion to dismiss your case. Some trustees have been known to ignore a divorce if both spouses want to keep the Chapter 13 going and continue to make the payments. Even so, you will probably want to ask the divorce court to divide your divorce ("bifurcate," in legalese) so that your marital status changes from married to divorced, but that the final division of marital property and debts is postponed until your Chapter 13 case ends. You could simplify matters by separating, but not divorcing. In either situation, be sure to let the trustee know of any change of address.

Who finds out? It's highly unusual for anyone to find out about your bankruptcy other than your creditors, businesses that obtain a copy of your credit report, and the people you tell. Although your bankruptcy filing will be published in a local newspaper, these notices often appear in low-circulation papers, and few people sit around reading these notices anyway. Bankruptcy filings aren't broadcast on local television or radio. No one from the bankruptcy court will visit your home or your business, even if you are self-employed. Filing for bankruptcy isn't like "getting in trouble with the IRS." Most people who file Chapter 7 are in and out of the bankruptcy system in a matter of months, and find the trustee and judge (if they even see a judge) to be friendly and helpful.

E. Will I Lose My Self-Respect?

Americans learn almost from birth that it's a good thing to buy all sorts of goods and services. A highly paid army of persuaders surrounds us with thousands of seductive messages each day that all say "Buy, buy, buy." Easily available credit makes living beyond your means easy, and resisting the siren sounds of the advertisers difficult. But we're also told that if

we fail to pay for it all right on time, we're miserable deadbeats. In short, much of American economic life is built on a contradiction.

If for some reason, such as illness, loss of work, divorce, or just plain bad planning, our ability to pay for the goods or services we need is interrupted, guilt is often our first feeling. We may even feel we've fundamentally failed as human beings.

Nonsense. There's more to life than an A+ credit rating, and bigger things to feel guilty about than the failure to pay bills on time. We should never forget our importance to our families, friends, and neighbors. The American economy is based on consumer debt. Creditors expect defaults and bankruptcies, and treat them as a cost of doing business. The reason so many banks issue credit cards is that it is a very profitable business, even with so many bankruptcies.

Fortunately, for thousands of years it's been recognized that debts can get the better of even the most conscientious among us. From Biblical times to the present, sane societies have discouraged debtors from falling on their swords and have provided sensible ways for debt-oppressed people to start new economic lives. In the United States, this is done through bankruptcy.

Bankruptcy is a truly worthy part of our legal system, based as it is on forgiveness rather than retribution. Certainly, it gives people a fresh start in our increasingly volatile economy, helps keep families together, reduces suicide, and keeps the ranks of the homeless from growing even larger.



Now is the time to complete the Chapter 7 questions on the “Should I File for Bankruptcy?” checklist in Appendix A at the end of the book. ■

8

Is It Too Hard to File?

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Filing for bankruptcy, particularly Chapter 7 bankruptcy, can be a lot like doing your taxes. Most people can handle the process on their own. Overall, fewer than 25% of all bankruptcy filers are “do-it-yourselfers.” In some bankruptcy courts, however, as many as 33%–40% of people file without hiring an attorney.

Most Chapter 7 bankruptcy cases are simple. If you have only unsecured dischargeable debts and exempt property, you can probably successfully go it alone. Your only appearance is likely to be the creditors’ meeting in front of the trustee, and it is you—not your attorney if you have one—who has to answer the trustee’s questions in any case. Attorneys serve little more function than potted plants at most creditors’ meetings.

As your case increases in complexity, however—if, for example, you have a lien on your house you want to wipe out or you own some valuable property that might be nonexempt—it becomes more advisable for you to get some legal help in order to achieve the best possible results. In Section B below, we provide some brief descriptions of the proceedings that might require some outside help in your Chapter 7 case.

By contrast, most people who file for Chapter 13 bankruptcy hire an attorney. As explained below in Section C, Chapter 13 bankruptcy is usually difficult for self-represented people to successfully complete on their own.

A. Filling Out the Bankruptcy Forms

In every bankruptcy case, you must fill out the following forms:

- Form 1—Voluntary Petition, in which you ask the bankruptcy court to discharge your debts.
- Form 6, which consists of:
 - ✓ Schedule A—Real Property
 - ✓ Schedule B—Personal Property
 - ✓ Schedule C—Property Claimed As Exempt
 - ✓ Schedule D—Creditors Holding Secured Claims
 - ✓ Schedule E—Creditors Holding Unsecured Priority Claims

- ✓ Schedule F—Creditors Holding Unsecured Nonpriority Claims
 - ✓ Schedule G—Executory Contracts and Unexpired Leases
 - ✓ Schedule H—Codebtors
 - ✓ Schedule I—Current Income
 - ✓ Schedule J—Current Expenditures
 - ✓ Summary Schedules A through J
 - ✓ Declaration Concerning Debtor's Schedules, in which you declare under penalty of perjury that the information you put in the schedules is true and correct.
- Form 7—Statement of Financial Affairs, in which you provide information about your economic affairs during the past several years.
 - Form 8—Chapter 7 Individual Debtor's Statement of Intention, in which you tell your secured creditors what you plan to do with your property listed as collateral for a secured loan. (Chapter 7 bankruptcy only.)
 - Form 21—Your full Social Security number.
 - A mailing matrix, on which you list your creditors and their addresses.
 - Chapter 13 Repayment Plan, on which you propose your repayment plan to the bankruptcy court. (Chapter 13 bankruptcy only.)

Although you are not required to type your forms, many courts prefer that they be typed. And even if your court doesn't care, the court clerk is likely to be friendlier if you show up with neatly typed forms.



The court has taken steps to protect you against identity

theft. The latest bankruptcy petition and schedules ask for only the last four numbers of your Social Security number. There is a separate new form, Form 21, for your complete Social Security number that is distributed only to the U.S. Trustee, bankruptcy trustee, and creditors. It won't be in the court file.

The following tips might help you determine whether or not you want to file for bankruptcy on your own:

- **You must be ridiculously thorough.** Always err on the side of giving too much information rather than too little.

- **You must respond to every question.** If a question that doesn't apply to you doesn't have a "none" box to check, you will have to type in "N/A" for "not applicable." When listing their property, debtors tend to leave out stuff that they think has no value. That's a bad idea. List the property, and either put zero for its value, or check the "unknown" box. Then be prepared to explain your answer at the creditors' meeting.
- **You will repeat yourself.** Sometimes different forms—or different questions on the same form—ask for the same or overlapping information. You will have to provide the same information multiple times.
- **You must be scrupulously honest.** As explained earlier in Chapter 7, you must swear, under penalty of perjury, that you've been truthful on your bankruptcy forms. The most likely consequence for failing to be scrupulously honest is a dismissal of your bankruptcy case, but you could be prosecuted for perjury if it's evident that you deliberately lied.

Below are samples of the court forms filed in a typical Chapter 7 bankruptcy. These are the same forms filed in a Chapter 13 case (minus Form 8). Chapter 13 bankruptcy also requires a repayment plan. There is no official Chapter 13 plan form that all bankruptcy courts use, so below we include a few copies of completed Chapter 13 plans.

At first glance you might think, "No way can I deal with all this paperwork." However, especially in Chapter 7 cases, it really isn't as difficult as it looks. Nolo publishes excellent, up-to-date, line-by-line guides for the forms, and you'll only need to complete the parts of the forms that apply to your personal situation.



For further information on preparing these forms, see *How to File for Chapter 7 Bankruptcy*, by Stephen R. Elias, Albin Renauer, Robin Leonard, and Kathleen Michon, and *Chapter 13 Bankruptcy: Repay Your Debts*, by Robin Leonard, both published by Nolo. Both guides contain blank forms (in addition to filled-in samples) and complete instructions for filing a bankruptcy case on your own. You can also view the current official forms online at www.uscourts.gov/bankform.

(Official Form 1) (12/03)

Voluntary Petition

(This page must be completed and filed in every case)

Name of Debtor(s):

FORM B1, Page 2

**Maytag, Molly Maria
Maytag, Jonathan****Prior Bankruptcy Case Filed Within Last 6 Years** (If more than one, attach additional sheet)

Location

Where Filed: **- None -**

Case Number:

Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)

Name of Debtor:

- None -

Case Number:

Date Filed:

District:

Relationship:

Judge:

Signatures**Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.

[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X Molly Maria Maytag
Signature of Debtor **Molly Maria Maytag****X** Jonathan Maytag
Signature of Joint Debtor **Jonathan Maytag**

Telephone Number (If not represented by attorney)

Date

Signature of Attorney**X** _____
Signature of Attorney for Debtor(s)
Debtor not represented by attorney
Printed Name of Attorney for Debtor(s)

Firm Name

Address

Telephone Number

Date

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X _____
Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)

☐ Exhibit A is attached and made a part of this petition.**Exhibit B**

(To be completed if debtor is an individual whose debts are primarily consumer debts)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

X _____
Signature of Attorney for Debtor(s) Date**Exhibit C**

Does the debtor own or have possession of any property that poses a threat of imminent and identifiable harm to public health or safety?

☐ Yes, and Exhibit C is attached and made a part of this petition.
☒ No**Signature of Non-Attorney Petition Preparer**

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

Printed Name of Bankruptcy Petition Preparer

Social Security Number (Required by 11 U.S.C. § 110(c).)

Address

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

X _____
Signature of Bankruptcy Petition Preparer

Date

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

Form B 21 Official Form 21
(12/03)

FORM 21. STATEMENT OF SOCIAL SECURITY NUMBER

**United States Bankruptcy Court
Northern District of Ohio**

**Molly Maria Maytag
Molly Maria Johnson
Jonathan Maytag
DBA Maytag Consulting**

In re _____

Debtor

Case No. _____

Address **21 Scarborough Road South
Cleveland Heights, OH 41118**

Chapter **7**

Employer's Tax Identification (EIN) No(s). [if any]: _____

Last four digits of Social Security No(s): **xxx-xx-9999 & xxx-xx-8765**

STATEMENT OF SOCIAL SECURITY NUMBER(S)

1. Name of Debtor (enter Last, First, Middle): **Maytag, Molly, Maria**

(Check the appropriate box and, if applicable, provide the required information.)

☒ / Debtor has a Social Security Number and it is: **999-99-9999**
(If more than one, state all.)

☐ / Debtor does not have a Social Security Number.

2. Name of Joint Debtor (enter Last, First, Middle): **Maytag, Jonathan,**

(Check the appropriate box and, if applicable, provide the required information.)

☒ / Joint Debtor has a Social Security Number and it is: **435-65-8765**
(If more than one, state all.)

☐ / Joint Debtor does not have a Social Security Number.

I declare under penalty of perjury that the foregoing is true and correct.

X	<u>Molly Maria Maytag</u>	_____	Date
	Molly Maria Maytag		
	Signature of Debtor		
X	<u>Jonathan Maytag</u>	_____	Date
	Jonathan Maytag		
	Signature of Joint Debtor		

**Joint debtors must provide information for both spouses.*

Penalty for making a false statement: Fine of up to \$250,000 or up to 5 years imprisonment or both. 18 U.S.C. §§ 152 and 3571.

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Best Case Bankruptcy

United States Bankruptcy Court
Northern District of Ohio

In re **Molly Maria Maytag,**
Jonathan Maytag

Debtors

Case No. _____

Chapter 7

SUMMARY OF SCHEDULES

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts from Schedules D, E, and F to determine the total amount of the debtor's liabilities.

			AMOUNTS SCHEDULED		
NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	Yes	1	155,000.00		
B - Personal Property	Yes	6	41,542.00		
C - Property Claimed as Exempt	Yes	3			
D - Creditors Holding Secured Claims	Yes	2		158,750.00	
E - Creditors Holding Unsecured Priority Claims	Yes	3		4,800.00	
F - Creditors Holding Unsecured Nonpriority Claims	Yes	3		50,650.00	
G - Executory Contracts and Unexpired Leases	Yes	1			
H - Codebtors	Yes	1			
I - Current Income of Individual Debtor(s)	Yes	1			3,400.00
J - Current Expenditures of Individual Debtor(s)	Yes	1			3,425.00
Total Number of Sheets of ALL Schedules		22			
Total Assets			196,542.00		
Total Liabilities				214,200.00	

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE A. REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a cotenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. (See Schedule D.) If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C - Property Claimed as Exempt.

Description and Location of Property	Nature of Debtor's Interest in Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption	Amount of Secured Claim
Residence at 21 Scarborough Road South, Cleveland Heights OH 41118	Fee simple	J	150,000.00	144,000.00
Unimproved lot at 244 Hwy 50, Parma, OH 44000	Fee simple	H	5,000.00	0.00

Sub-Total > **155,000.00** (Total of this page)

Total > **155,000.00**

0 continuation sheets attached to the Schedule of Real Property

(Report also on Summary of Schedules)

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, or both own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property."

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand		Cash from wages Location: 21 Scarborough Road South, Cleveland Heights OH	J	100.00
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Ameritrust checking account #12345	J	250.00
		Shaker Savings account, #98765	J	400.00
		Ohio Savings account #08-118061	J	100.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		Stereo system Location: 21 Scarborough Road South, Cleveland Heights OH	J	300.00
		Washer/dryer set Location: 21 Scarborough Road South, Cleveland Heights OH	J	150.00
		Refrigerator Location: 21 Scarborough Road South, Cleveland Heights OH	J	0.00
		stove Location: 21 Scarborough Road South, Cleveland Heights OH	J	150.00
		miscellaneous furniture (couch, two chairs, 2 end tables) Location: 21 Scarborough Road South, Cleveland Heights OH	J	600.00
Sub-Total > (Total of this page)				2,050.00

5 continuation sheets attached to the Schedule of Personal Property

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		minor appliances (blender, toaster, mixer) Location: 21 Scarborough Road South, Cleveland Heights OH	J	75.00
		"Antique" desk Location: 21 Scarborough Road South, Cleveland Heights OH	J	250.00
		vacuum Location: 21 Scarborough Road South, Cleveland Heights OH	J	30.00
		bed and bedding Location: 21 Scarborough Road South, Cleveland Heights OH	J	500.00
		television Location: 21 Scarborough Road South, Cleveland Heights OH	J	135.00
		VCR Location: 21 Scarborough Road South, Cleveland Heights OH	J	0.00
		lawnmower Location: 21 Scarborough Road South, Cleveland Heights OH	J	100.00
		swingset, children's toys Location: 21 Scarborough Road South, Cleveland Heights OH	J	180.00
		snowblower Location: 21 Scarborough Road South, Cleveland Heights OH	J	100.00
		Oriental rug Location: 21 Scarborough Road South, Cleveland Heights OH	J	2,500.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.		books (\$50) stamps (\$75) Location: 21 Scarborough Road South, Cleveland Heights OH	J	125.00
6. Wearing apparel.		normal clothing for both husband and wife Location: 21 Scarborough Road South, Cleveland Heights OH	J	625.00

Sub-Total > **4,620.00**
(Total of this page)

Sheet 1 of 5 continuation sheets attached
to the Schedule of Personal Property

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
7. Furs and jewelry.		wedding rings Location: 21 Scarborough Road South, Cleveland Heights OH	J	225.00
		diamond necklace Location: 21 Scarborough Road South, Cleveland Heights OH	J	325.00
		watches Location: 21 Scarborough Road South, Cleveland Heights OH	J	50.00
8. Firearms and sports, photographic, and other hobby equipment.		mountain bike	J	165.00
		Camera	J	125.00
		sword collection Location: 21 Scarborough Road South, Cleveland Heights OH	J	1,485.00
		daughter's bicycle	J	100.00
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		term life insurance policy, Lively Ins. Co, 120 Manhattan St NY NY 10012, Policy #14-171136	J	120.00
		term life insurance policy, Live a Long Time Co, 52 Mitchell Ave, Hartford CT 06434, Policy #33-19195WY17	J	65.00
10. Annuities. Itemize and name each issuer.	X			
11. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Itemize.		Cleveland Builders Pension, 100 Chester Way, Cleveland OH 44114, ERISA Qualified	H	6,612.00
		IRA, Basic Bank 9712 Smitco Creek Blvd, Columbus OH 45923	J	3,400.00
12. Stock and interests in incorporated and unincorporated businesses. Itemize.		Trusso Corp stock #3711, 50 shares @\$20 each	J	1,000.00
		All certificates at Ameritrust, 10 Financial Way, Cleveland Hts OH 41118		
		Investco Ltd stock #1244711, 5 shares @ \$100 each All certificates at Ameritrust, 10 Financial Way, Cleveland Hts OH 41118	J	500.00
Sub-Total >				14,172.00
(Total of this page)				

Sheet 2 of 5 continuation sheets attached
to the Schedule of Personal Property

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		Rayco Co. stock #RC53, 20 shares@\$40 each	J	800.00
		All certificates at Ameritrust, 10 Financial Way, Cleveland Hts OH 41118		
13. Interests in partnerships or joint ventures. Itemize.	X			
14. Government and corporate bonds and other negotiable and nonnegotiable instruments.		U.S. Savings Bonds, All certificates at Ameritrust, 10 Financial Way, Cleveland Hts OH 41118	J	1,000.00
		Negotiable promissory note from Jonathan Maytag's sister, Trini Maytag Ellison, dated 11/3/XX Location: 21 Scarborough Road South, Cleveland Heights OH	J	500.00
15. Accounts receivable.	X			
16. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
17. Other liquidated debts owing debtor including tax refunds. Give particulars.		wages for 6/XX to 6/30/XX from Cleveland Builder for 30 days prior to filing date	H	1,900.00
		wages for 6/1/XX to 6/30/XX from Typing Circles for 30 days prior to filing date	W	100.00
18. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule of Real Property.	X			
19. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
20. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.	X			
Sub-Total >				4,300.00
(Total of this page)				

Sheet **3** of **5** continuation sheets attached
to the Schedule of Personal Property

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
21. Patents, copyrights, and other intellectual property. Give particulars.	X			
22. Licenses, franchises, and other general intangibles. Give particulars.	X			
23. Automobiles, trucks, trailers, and other vehicles and accessories.		1988 Honda Motorcycle Location: 21 Scarborough Road South, Cleveland Heights OH	W	1,000.00
		2000 Buick Le Sabre	J	12,000.00
24. Boats, motors, and accessories.		sailboard, docked at Lake Erie Dock, Cleveland, OH	J	1,250.00
25. Aircraft and accessories.	X			
26. Office equipment, furnishings, and supplies.		computer for business Location: 21 Scarborough Road South, Cleveland Heights OH	J	900.00
		typewriter (for business) Location: 21 Scarborough Road South, Cleveland Heights OH	J	125.00
		Fax machine (for business) Location: 21 Scarborough Road South, Cleveland Heights OH	J	275.00
27. Machinery, fixtures, equipment, and supplies used in business.		Carpentry tools Location: 21 Scarborough Road South, Cleveland Heights OH	J	150.00
28. Inventory.	X			
29. Animals.		Poodles (2) Location: 21 Scarborough Road South, Cleveland Heights OH	J	200.00
		Children's bedroom furniture Location: 21 Scarborough Road South, Cleveland Heights OH	J	500.00
30. Crops - growing or harvested. Give particulars.	X			
			Sub-Total >	16,400.00
			(Total of this page)	

Sheet 4 of 5 continuation sheets attached
to the Schedule of Personal Property

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE B. PERSONAL PROPERTY
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Market Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
31. Farming equipment and implements.	X			
32. Farm supplies, chemicals, and feed.	X			
33. Other personal property of any kind not already listed.	X			

Sub-Total > **0.00**
(Total of this page)
Total > **41,542.00**

Sheet **5** of **5** continuation sheets attached
to the Schedule of Personal Property

(Report also on Summary of Schedules)

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- ☐ 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
- ☒ 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
<u>Real Property</u>			
Residence at 21 Scarborough Road South, Cleveland Heights OH 41118	Ohio Rev. Code Ann. § 2329.66(A)(1)	6,000.00	150,000.00
<u>Cash on Hand</u>			
Cash from wages Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(a)	100.00	100.00
<u>Checking, Savings, or Other Financial Accounts, Certificates of Deposit</u>			
Ameritrust checking account #12345	Ohio Rev. Code Ann. § 2329.66(A)(18)	250.00	250.00
Shaker Savings account, #98765	Ohio Rev. Code Ann. § 2329.66(A)(18)	400.00	400.00
Ohio Savings account #08-118061	Ohio Rev. Code Ann. § 2329.66(A)(18)	100.00	100.00
<u>Household Goods and Furnishings</u>			
Stereo system Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	300.00	300.00
Washer/dryer set Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	150.00	150.00
stove Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	150.00	150.00
miscellaneous furniture (couch, two chairs, 2 end tables) Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	600.00	600.00
minor appliances (blender, toaster, mixer) Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	75.00	75.00
"Antique" desk Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	250.00	250.00
vacuum Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	30.00	30.00

2 continuation sheets attached to Schedule of Property Claimed as Exempt

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
bed and bedding Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	500.00	500.00
television Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	135.00	135.00
VCR Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	0.00	0.00
lawnmower Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	100.00	100.00
swingset, children's toys Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	180.00	180.00
snowblower Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	100.00	100.00
Oriental rug Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(b)	430.00	2,500.00
Books, Pictures and Other Art Objects; Collectibles books (\$50) stamps (\$75) Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(18)	50.00	125.00
Wearing Apparel normal clothing for both husband and wife Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(3)	625.00	625.00
Furs and Jewelry wedding rings Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(c)	225.00	225.00
diamond necklace Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(c)	325.00	325.00
watches Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(4)(c)	50.00	50.00
Firearms and Sports, Photographic and Other Hobby Equipment mountain bike	Ohio Rev. Code Ann. § 2329.66(A)(18)	0.00	165.00

Sheet **1** of **2** continuation sheets attached to the Schedule of Property Claimed as Exempt

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
Camera	Ohio Rev. Code Ann. § 2329.66(A)(18)	0.00	125.00
<u>Interests in Insurance Policies</u> term life insurance policy, Lively Ins. Co, 120 Manhattan St NY NY 10012, Policy #14-171136	Ohio Rev. Code Ann. §§ 2329.66(A)(6)(c), 3917.05	120.00	120.00
term life insurance policy, Live a Long Time Co, 52 Mitchell Ave. Hartford CT 06434, Policy #33-19195WY17	Ohio Rev. Code Ann. §§ 2329.66(A)(6)(c), 3917.05	65.00	65.00
<u>Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans</u> Cleveland Builders Pension, 100 Chester Way, Cleveland OH 44114, ERISA Qualified	Ohio Rev. Code Ann. § 2329.66(A)(17)	6,612.00	6,612.00
IRA, Basic Bank 9712 Smitco Creek Blvd, Columbus OH 45923	Ohio Rev. Code Ann. § 2329.66(A)(10)(c)	3,400.00	3,400.00
<u>Other Liquidated Debts Owning Debtor Including Tax Refund</u> wages for 6/XX to 6/30/XX from Cleveland Builder for 30 days prior to filing date	Ohio Rev. Code Ann. § 2329.66(A)(13)	1,900.00	1,900.00
wages for 6/1/XX to 6/30/XX from Typing Circles for 30 days prior to filing date	Ohio Rev. Code Ann. § 2329.66(A)(13)	100.00	100.00
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u> 1988 Honda Motorcycle Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(2)	1,000.00	1,000.00
<u>Office Equipment, Furnishings and Supplies</u> computer for business Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(5)	1,100.00	900.00
typewriter (for business) Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(5)	125.00	125.00
Fax machine (for business) Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(5)	275.00	275.00
<u>Machinery, Fixtures, Equipment and Supplies Used in Business</u> Carpentry tools Location: 21 Scarborough Road South, Cleveland Heights OH	Ohio Rev. Code Ann. § 2329.66(A)(5)	0.00	150.00

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE D. CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code, and account number, if any, of all entities holding claims secured by property of the debtor as of the date of filing of the petition. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests. List creditors in alphabetical order to the extent practicable. If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule II - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME AND MAILING ADDRESS, INCLUDING ZIP CODE	C O D E B T O R H W J C	Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND MARKET VALUE OF PROPERTY SUBJECT TO LIEN	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION IF ANY
Account No. 64-112-1861			9/12-present					
Ameritrust 10 Financial Way Cleveland Hts, OH 41118			First Mortgage					
	J		Residence at 21 Scarborough Road South, Cleveland Heights OH 41118					
			Value \$ 150,000.00				130,000.00	0.00
Account No. 64-112-8423			8/9/XX					
Ameritrust 10 Financial Way Cleveland, OH 41118			Second Mortgage					
	J		Residence at 21 Scarborough Road South, Cleveland Heights OH 41118					
			Value \$ 150,000.00				12,000.00	0.00
Account No.			8/12/XX					
Computers For Sale PO Box 1183 San Ramon, CA 94000			Judgment Lien					
	J		Residence at 21 Scarborough Road South, Cleveland Heights OH 41118					
			Value \$ 150,000.00				2,000.00	0.00
Account No. 5514			6/4/XX					
Fanny's Furniture 14 4th St. Cleveland, OH 44114			Purchase Money Security					
	J		Children's bedroom furniture Location: 21 Scarborough Road South, Cleveland Heights OH					
			Value \$ 500.00				750.00	250.00
Subtotal							144,750.00	
(Total of this page)								

1 continuation sheets attached

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE D. CREDITORS HOLDING SECURED CLAIMS
(Continuation Sheet)

CREDITOR'S NAME AND MAILING ADDRESS, INCLUDING ZIP CODE	C O D E D E B I T O R H W J C	Husband, Wife, Joint, or Community	C O N T I N G E N T	U N L I Q U A T E D	D I S P U T E D	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION IF ANY
		DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND MARKET VALUE OF PROPERTY SUBJECT TO LIEN					
Account No. 456 345678							
Shaker Heights Credit Union 2345 5th Ave. Cleveland, OH 44144	J		June 2000				
			Security interest				
			2000 Buick Le Sabre				
			Value \$ 12,000.00			14,000.00	2,000.00
Account No.							
			Value \$				
Account No.							
			Value \$				
Account No.							
			Value \$				
Account No.							
			Value \$				
Sheet 1 of 1 continuation sheets attached to Schedule of Creditors Holding Secured Claims						Subtotal (Total of this page)	14,000.00
(Report on Summary of Schedules)						Total	158,750.00

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE E. CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name and mailing address, including zip code, and account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of this petition.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotal" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Repeat this total also on the Summary of Schedules.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets.)

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(2).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$4,650* per person earned within 90 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507 (a)(3).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$4,650* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(5).

☐ **Deposits by individuals**

Claims of individuals up to \$2,100* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(6).

☒ **Alimony, Maintenance, or Support**

Claims of a spouse, former spouse, or child of the debtor for alimony, maintenance, or support, to the extent provided in 11 U.S.C. § 507(a)(7).

☒ **Taxes and Certain Other Debts Owed to Governmental Units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to Maintain the Capital of an Insured Depository Institution**

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

*Amounts are subject to adjustment on April 1, 2004, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

2 continuation sheets attached

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE E. CREDITORS HOLDING UNSECURED PRIORITY CLAIMS
(Continuation Sheet)

Alimony, Maintenance, or Support

TYPE OF PRIORITY

CREDITOR'S NAME AND MAILING ADDRESS, INCLUDING ZIP CODE	C O D E D E B T O R	H W J C	Husband, Wife, Joint, or Community	C O N T I N G U N S E C U R E D	D I S P U T E D U N L I Q U I D A T E D	D I S P U T E D	TOTAL AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY
			DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM					
Account No.			6/XX to 8/XX					
Ellen Rogers 900 Grand View Jackson, WY 83001		J	child support					
							1,800.00	0.00
Account No.								
Account No.								
Account No.								
Account No.								

Sheet **1** of **2** continuation sheets attached to
Schedule of Creditors Holding Unsecured Priority Claims

Subtotal
(Total of this page)

1,800.00

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE E. CREDITORS HOLDING UNSECURED PRIORITY CLAIMS
(Continuation Sheet)

**Taxes and Certain Other Debts
Owed to Governmental Units**

TYPE OF PRIORITY

CREDITOR'S NAME AND MAILING ADDRESS, INCLUDING ZIP CODE	C O D E D E B T O R	H W J C	Husband, Wife, Joint, or Community DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	TOTAL AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY
Account No. IRS Columbus, OH 43266		J	April 15, 20XX				2,200.00	2,200.00
Account No. Ohio Dept of Tax PO Box 1460 Columbus, OH 43266		J	April 15, 20XX tax liability				800.00	800.00
Account No. 								
Account No. 								
Account No. 								

Sheet **2** of **2** continuation sheets attached to
Schedule of Creditors Holding Unsecured Priority Claims

Subtotal (Total of this page)	3,000.00
Total (Report on Summary of Schedules)	4,800.00

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and account number, if any, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

☐ Check this box if debtor has no creditors holding unsecured nonpriority claims to report on this Schedule F.

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	C O D E B T O R	Husband, Wife, Joint, or Community	D A T E C L A I M W A S I N C U R R E D A N D C O N S I D E R A T I O N F O R C L A I M. I F C L A I M I S S U B J E C T T O S E T O F F, S O S T A T E.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	A M O U N T O F C L A I M
		H W J C					
Account No.			4/XX Tax preparation				
Alan Accountant 5 Green St. Cleveland, OH 44118	J						250.00
Account No. 4189-0000-2613-5556			1/XX to 4/XX Credit card charges				
American Allowance PO Box 1 New York, NY 10001	J						5,600.00
Account No.			8/XX personal loan				
Bonnie Johnson 40 Mayfield Cleveland, OH 44118	J						5,500.00
Account No. 845061-86-3			20XX Student loan				
Citibank 200 East North Columbus, OH 43266	J						10,000.00
Subtotal (Total of this page)							21,350.00

2 continuation sheets attached

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	C O D E D E B T O R	H W J C Husband, Wife, Joint, or Community	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM
Account No. 9816-12HH Cleveland Hospital 19 1st Ave Cleveland, OH 44115		J	12/XX uninsured surgery and medical treatment				17,450.00
Account No. 4401 Dr. Dennis Dentist 45 Superior Way Cleveland, OH 44118		W	12/XX to 6/XX, dental work				1,050.00
Account No. Dr. Helen Jones 11 Marks Way Cleveland, OH 44115		J	4/XX to 8/XX pediatric care				2,000.00
Account No. 222387941 Illuminating Cod 55 Public Square Cleveland, OH 44115		J	3/XX to 7/XX electrical work				750.00
Account No. 6007 John White Esq 21 Main St Cleveland, OH 44114		J	2/XX to 6/XX represented us in lawsuits against us for unpaid bills				3,450.00
Sheet no. <u>1</u> of <u>2</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims							Subtotal (Total of this page) 24,700.00

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE F. CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS
(Continuation Sheet)

CREDITOR'S NAME AND MAILING ADDRESS INCLUDING ZIP CODE	C O D E B O R	H W J C	Husband, Wife, Joint, or Community DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	C O N T I N G E N T	U N C O N T I N G E N T	D I S P U T E D	AMOUNT OF CLAIM
Account No. 11210550 Ohio Gas Company East 1717 East 9th St. Cleveland, OH 44115		J	12/xx to 6/xx gas service				800.00
Account No. 487310097 Sears PO Box 11 Chicago, IL 60619		J	20XX to 20 XY, dept store and catalogue charges				3,800.00
Account No. 							
Account No. 							
Account No. 							
Sheet no. <u>2</u> of <u>2</u> sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims							Subtotal (Total of this page) 4,600.00
(Report on Summary of Schedules)							Total 50,650.00

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE G. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser," "Agent," etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described.

NOTE: A party listed on this schedule will not receive notice of the filing of this case unless the party is also scheduled in the appropriate schedule of creditors.

☐ Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code, of Other Parties to Lease or Contract	Description of Contract or Lease and Nature of Debtor's Interest. State whether lease is for nonresidential real property. State contract number of any government contract.
Scarborough Road So. Hmrs Assoc 1 Scarborough Rd So. Cleveland, OH 41118	Homeowner's Association Contract for residential property, signed 10/XX, expires 12/XX. Provides for maintenance, gardening and repairs of property.

0 continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE H. CODEBTORS

Provide the information requested concerning any person or entity, other than a spouse in a joint case, that is also liable on any debts listed by debtor in the schedules of creditors. Include all guarantors and co-signers. In community property states, a married debtor not filing a joint case should report the name and address of the nondebtor spouse on this schedule. Include all names used by the nondebtor spouse during the six years immediately preceding the commencement of this case.

☐ Check this box if debtor has no codebtors.

NAME AND ADDRESS OF CODEBTOR	NAME AND ADDRESS OF CREDITOR
Bonnie Johnson 40 Mayfield Cleveland, OH 44118	Fanny's Furniture 14-4th St. Cleveland, OH 44114

0 continuation sheets attached to Schedule of Codebtors

Form BGJ
(12/03)In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE I. CURRENT INCOME OF INDIVIDUAL DEBTOR(S)

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by a married debtor in a chapter 12 or 13 case whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
Married	RELATIONSHIP Son Daughter	AGE 12 14
EMPLOYMENT:	DEBTOR	SPOUSE
Occupation	Clerk/typist	Construction worker
Name of Employer	Typing Circles	Cleveland Builder
How long employed	1 and 1/2 years	4 years
Address of Employer	40 Euclid Drive Cleveland, OH 44112	100 Chester Way Cleveland, OH 44114

INCOME: (Estimate of average monthly income)

Current monthly gross wages, salary, and commissions (pro rate if not paid monthly)

Estimated monthly overtime

SUBTOTAL

LESS PAYROLL DEDUCTIONS

a. Payroll taxes and social security

b. Insurance

c. Union dues

d. Other (Specify)

SUBTOTAL OF PAYROLL DEDUCTIONS

TOTAL NET MONTHLY TAKE HOME PAY

Regular income from operation of business or profession or farm (attach detailed statement)

Income from real property

Interest and dividends

Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above

Social security or other government assistance (Specify)

Pension or retirement income

Other monthly income

(Specify)

TOTAL MONTHLY INCOME

TOTAL COMBINED MONTHLY INCOME \$ **3,400.00**

DEBTOR

SPOUSE

\$ **1,450.00** \$ **3,000.00**\$ **0.00** \$ **0.00**\$ **1,450.00** \$ **3,000.00**\$ **350.00** \$ **600.00**\$ **0.00** \$ **250.00**\$ **0.00** \$ **50.00**\$ **0.00** \$ **0.00**\$ **0.00** \$ **0.00**\$ **350.00** \$ **900.00**\$ **1,100.00** \$ **2,100.00**\$ **0.00** \$ **0.00**\$ **0.00** \$ **0.00**\$ **100.00** \$ **100.00**\$ **0.00** \$ **0.00**\$ **0.00** \$ **0.00**\$ **0.00** \$ **0.00**\$ **0.00** \$ **0.00**\$ **0.00** \$ **0.00**\$ **0.00** \$ **0.00**\$ **1,200.00** \$ **2,200.00**

(Report also on Summary of Schedules)

Describe any increase or decrease of more than 10% in any of the above categories anticipated to occur within the year following the filing of this document:

In re **Molly Maria Maytag,
Jonathan Maytag**

Case No. _____

Debtors

SCHEDULE J. CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average monthly expenses of the debtor and the debtor's family. Pro rate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

Rent or home mortgage payment (include lot rented for mobile home)	\$	650.00
Are real estate taxes included? Yes ☒ No _____		
Is property insurance included? Yes _____ No ☒		
Utilities: Electricity and heating fuel	\$	245.00
Water and sewer	\$	40.00
Telephone	\$	85.00
Other garbage	\$	15.00
Home maintenance (repairs and upkeep)	\$	175.00
Food	\$	550.00
Clothing	\$	125.00
Laundry and dry cleaning	\$	50.00
Medical and dental expenses	\$	300.00
Transportation (not including car payments)	\$	80.00
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	30.00
Charitable contributions	\$	50.00
Insurance (not deducted from wages or included in home mortgage payments)		
Homeowner's or renter's	\$	120.00
Life	\$	0.00
Health	\$	0.00
Auto	\$	60.00
Other	\$	0.00
Taxes (not deducted from wages or included in home mortgage payments)		
(Specify) Income taxes to IRS and Ohio Dept of Tax	\$	200.00
Installment payments: (In chapter 12 and 13 cases, do not list payments to be included in the plan.)		
Auto	\$	200.00
Other Home equity loan	\$	100.00
Other Children's bedroom furniture	\$	50.00
Other	\$	0.00
Alimony, maintenance, and support paid to others	\$	300.00
Payments for support of additional dependents not living at your home	\$	0.00
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	0.00
Other	\$	0.00
Other	\$	0.00
TOTAL MONTHLY EXPENSES (Report also on Summary of Schedules)	\$	3,425.00

[FOR CHAPTER 12 AND 13 DEBTORSONLY]

Provide the information requested below, including whether plan payments are to be made bi-weekly, monthly, annually, or at some other regular interval.

A. Total projected monthly income	\$	N/A
B. Total projected monthly expenses	\$	N/A
C. Excess income (A minus B)	\$	N/A
D. Total amount to be paid into plan each _____	\$	N/A
(interval)		

**United States Bankruptcy Court
Northern District of Ohio**

In re **Molly Maria Maytag
Jonathan Maytag**

Debtor(s)

Case No. _____
Chapter **7**

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of **23** sheets [total shown on summary page plus 1], and that they are true and correct to the best of my knowledge, information, and belief.

Date _____

Signature

Molly Maria Maytag

Molly Maria Maytag
Debtor

Date _____

Signature

Jonathan Maytag

Jonathan Maytag
Joint Debtor

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C. §§ 152 and 3571.

Form 7
(12/03)

**United States Bankruptcy Court
Northern District of Ohio**

In re **Molly Maria Maytag
Jonathan Maytag**

Debtor(s)

Case No.
Chapter

7

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs.

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within the six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None

☐

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE (if more than one)
\$6,000.00	(1/1/XX-7/3/XX (wife's employment)
\$18,000.00	(1/1/XX-7/3/XX (Husband's employment)
\$14,000.00	Wife's employment (20XX)
\$29,000.00	husband's employment (20XX)
\$11,000.00	wife's employment (20XX)
\$16,000.00	husband's employment (20XX)

2. Income other than from employment or operation of business

- None ☐ State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT	SOURCE
\$300.00	20XX stock dividends (J)
\$740.00	20XY stock dividends (J)
\$4,000.00	20XX workers' compensation benefits (H)

3. Payments to creditors

- None ☐ a. List all payments on loans, installment purchases of goods or services, and other debts, aggregating more than \$600 to any creditor, made within **90 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
Ameritrust 10 Financial Way Cleveland Hts, OH 41118	4/17/XX (\$650), 5/17 (650), 6/17/ (650)	\$1,950.00	\$130,000.00

- None ☐ b. List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING
Ellen Rogers 900 Grand View Jackson, WY 83001	8/XX to 5/XX, \$600 a month	\$1,800.00	\$1,800.00

4. Suits and administrative proceedings, executions, garnishments and attachments

- None ☐ a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
Cleveland Hospital v. Jonathan Maytag (H), #02- 2234	Suit for doctor's fee and medical bills	Cleveland Municipal Ct. Cleveland OH	trial set 9/7/XX
Dennis Dentist v. Molly M. Maytag, 03-8080 (W)	Suit for dentist fees	Cleveland Hts. Small Claims court, Cleveland OH	Open
Freedom Financial v. Jonathan and Molly Maytag, 01-9267	Suit for unpaid American Express bill	Cleveland Municipal Court, Cleveland OH	open
American Allowance v. Jonathan and Molly Maytag, 04-7400 (J)	Suit for unpaid credit card bill	Cleveland Municipal Ct., Cleveland OH	open

- None ☐ b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE on or about 2/XX	DESCRIPTION AND VALUE OF PROPERTY (J) bank account levy
Quality Collection Agency 21 Main St. Cleveland, OH 44115		
Quality Collection Agency 21 Main St. Cleveland, OH 44115	4/10/XX to 6/30/XX	wage garnishment \$850

5. Repossessions, foreclosures and returns

- None ☐ List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY
Shaker Heights Credit Union 2345 5th Ave. Cleveland, OH 44144	6/18/XX	1993 Honda Civic, approximate value \$4,500

6. Assignments and receiverships

- None ☒ a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT
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- None ☒ b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY
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7. Gifts

- None ☒ List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT
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8. Losses

- None ☐ List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case or since the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
Mountain bike, \$400	daughter's bicycle was stolen. Homeowner's insurance covered replacement. New bike purchased on 12/17/XY	10/5/XX

9. Payments related to debt counseling or bankruptcy

- None ☐ List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
John White Esq 21 Main St. Cleveland, OH 44114	5/15/XX	\$200 for consultation regarding bankruptcy

10. Other transfers

- None ☒ List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
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11. Closed financial accounts

- None ☐ List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING
Ohio Savings 1818 Lakeshore Avenue Euclid, OH 44123	Checking Account #058-118061	\$84.12, 2/11/XY

12. Safe deposit boxes

None

☐

List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK
OR OTHER DEPOSITORY

**Ameritrust
10 Financial Way
Cleveland, OH 44118**

NAMES AND ADDRESSES
OF THOSE WITH ACCESS
TO BOX OR DEPOSITORY

**Molly Maytag and Jonathan Maytag
See residential address**

DESCRIPTION
OF CONTENTS

stock certificates

DATE OF TRANSFER OR
SURRENDER, IF ANY

13. Setoffs

None

☒

List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR

DATE OF SETOFF

AMOUNT OF SETOFF

14. Property held for another person

None

☐

List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER

**Bonnie Johnson
40 Mayfield
Cleveland, OH 44118**

DESCRIPTION AND VALUE OF
PROPERTY

Poodle (Binkie) \$100

LOCATION OF PROPERTY

Maytag residence

**Felicia Maytag
8 Superior Rd
Cleveland, OH 44114**

19XX Ford Pickup, \$750

Maytag residence

15. Prior address of debtor

None

☒

If the debtor has moved within the **two years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS

NAME USED

DATES OF OCCUPANCY

16. Spouses and Former Spouses

None

☒

If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the **six-year period** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

- None ☐ a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
-----------------------	---------------------------------------	----------------	-------------------

- None ☐ b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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- None ☐ c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION
---------------------------------------	---------------	-----------------------

18. Nature, location and name of business

- None ☐ a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partnership, sole proprietorship, or was a self-employed professional within the **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within the **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within the **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within the **six years** immediately preceding the commencement of this case.

NAME	TAXPAYER I.D. NO. (EIN)	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
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- None ☐ b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME	ADDRESS
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The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within the **six years** immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or otherwise self-employed.

*(An individual or joint debtor should complete this portion of the statement **only** if the debtor is or has been in business, as defined above, within the six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)*

19. Books, records and financial statements

- None ☐ a. List all bookkeepers and accountants who within the **two years** immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS

DATES SERVICES RENDERED

- None ☐ b. List all firms or individuals who within the **two years** immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME

ADDRESS

DATES SERVICES RENDERED

- None ☐ c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME

ADDRESS

- None ☐ d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued within the **two years** immediately preceding the commencement of this case by the debtor.

NAME AND ADDRESS

DATE ISSUED

20. Inventories

- None ☐ a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY

INVENTORY SUPERVISOR

DOLLAR AMOUNT OF INVENTORY
(Specify cost, market or other basis)

- None ☐ b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY

NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY
RECORDS

21. Current Partners, Officers, Directors and Shareholders

- None ☐ a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS

NATURE OF INTEREST

PERCENTAGE OF INTEREST

- None ☐ b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS

TITLE

NATURE AND PERCENTAGE
OF STOCK OWNERSHIP

22 . Former partners, officers, directors and shareholders

- None ☐ a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

NAME	ADDRESS	DATE OF WITHDRAWAL
None ☐	b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within one year immediately preceding the commencement of this case.	

NAME AND ADDRESS	TITLE	DATE OF TERMINATION
------------------	-------	---------------------

23 . Withdrawals from a partnership or distributions by a corporation

- None ☐ If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
---	-----------------------------------	--

24. Tax Consolidation Group.

- None ☐ If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within the **six-year period** immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER
----------------------------	--------------------------------

25. Pension Funds.

- None ☐ If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within the **six-year period** immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER
----------------------	--------------------------------

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date _____	Signature <u>Molly Maria Maytag</u>
	Molly Maria Maytag
	Debtor

Date _____	Signature <u>Jonathan Maytag</u>
	Jonathan Maytag
	Joint Debtor

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

Official Form 8
(12/03)

**United States Bankruptcy Court
Northern District of Ohio**

In re **Molly Maria Maytag
Jonathan Maytag**

Debtor(s)

Case No.
Chapter

7

CHAPTER 7 INDIVIDUAL DEBTOR'S STATEMENT OF INTENTION

1. I have filed a schedule of assets and liabilities which includes consumer debts secured by property of the estate.
2. I intend to do the following with respect to the property of the estate which secures those consumer debts:

a. Property to Be Surrendered.

Description of Property
-NONE-

Creditor's name

b. Property to Be Retained

[Check any applicable statement.]

	Description of Property	Creditor's Name	Property is claimed as exempt	Property will be redeemed pursuant to 11 U.S.C. § 722	Debt will be reaffirmed pursuant to 11 U.S.C. § 524(c)
1.	Residence at 21 Scarborough Road South, Cleveland Heights OH 41118	Computers For Sale	X (avoid lien)		
2.		Quality Collection Agency	X (avoid lien)		
3.	Residence at 21 Scarborough Road South, Cleveland Heights OH 41118	Ameritrust		Debtor will retain collateral and continue to make regular payments.	
4.	Residence at 21 Scarborough Road South, Cleveland Heights OH 41118	Ameritrust		Debtor will retain collateral and continue to make regular payments.	
5.	Children's bedroom furniture Location: 21 Scarborough Road South, Cleveland Heights OH	Fanny's Furniture		Debtor will retain collateral and continue to make regular payments.	
6.	2000 Buick Le Sabre	Shaker Heights Credit Union		Debtor will retain collateral and continue to make regular payments.	

Date _____

Signature

Molly Maria Maytag

Molly Maria Maytag
Debtor

Date _____

Signature

Jonathan Maytag

Jonathan Maytag
Joint Debtor

United States Bankruptcy Court
Northern District of Ohio

In re Molly Maria Maytag Case No. _____
Jonathan Maytag Debtor(s) Chapter 7

VERIFICATION OF CREDITOR MATRIX

The above-named Debtors hereby verify that the attached list of creditors is true and correct to the best of their knowledge.

Date: _____
Molly Maria Maytag
Molly Maria Maytag
Signature of Debtor

Date: _____
Jonathan Maytag
Jonathan Maytag
Signature of Debtor

Alan Accountant
5 Green St.
Cleveland, OH 44118

American Allowance
PO Box 1
New York, NY 10001

Ameritrust
10 Financial Way
Cleveland Hts, OH 44118

Bonnie Johnson
40 Mayfield
Cleveland, OH 44118

Citibank
200 East North
Columbus, OH 43266

Cleveland Hospital
19 1st Ave
Cleveland, OH 44115

Computers For Sale
PO Box 1183
San Ramon, CA 94000

Dr. Dennis Dentist
45 Superior Way
Cleveland, OH 44118

Dr. Helen Jones
11 Marks Way
Cleveland, OH 44115

Ellen Rogers
900 Grand View
Jackson, WY 83001

Fanny's Furniture
14 4th St.
Cleveland, OH 44114

George Money, Attorney
10 Main Drive St
Cleveland, OH 44112

Illuminating Cod
55 Public Square
Cleveland, OH 44115

IRS
Columbus, OH 43266

Jane Jackson Esq
50 2nd Ave.
Cleveland, OH 44115

John White Esq
21 Main St.
Cleveland, OH 44114

Ohio Dept of Tax
PO Box 1460
Columbus, OH 43266

Ohio Gas Company East
1717 East 9th St.
Cleveland, OH 44115

Patricia WashingtonP Esq
Washington and Lincoln Legal Plax
STE 1
Cleveland, OH 44114

Quality Collection Agency
21 Main Drive West
Cleveland, OH 44115

Sears
PO Box 11
Chicago, IL 60619

Shaker Heights Credit Union
2345 5th Ave.
Cleveland, OH 44144

B. Going to Court in a Chapter 7 Bankruptcy

Representing yourself is easier in a Chapter 7 bankruptcy than in Chapter 13, because in Chapter 7 you usually don't need to make an appearance before the bankruptcy judge.

In Chapter 7 you most likely will have to attend nothing more than a creditors' meeting. (For more on creditors' meetings, see Chapter 1, Section D.) However, if the Chapter 7 case gives rise to issues that require resolution by the bankruptcy judge, you, or someone helping you, must know the required court procedures. This means either that you will have to work harder to represent yourself, or that you'll need to hire an attorney who already has a grasp of what needs to be done.

In this section we briefly describe some of the more common court procedures that might be required in a Chapter 7 bankruptcy. This will help you get an idea of what's involved if one of these issues raises its head in your case.



The Nolo book *How to File for Chapter 7 Bankruptcy*, by Stephen R. Elias, Albin Renauer, Robin Leonard, and Kathleen Michon, provides guidance for some of these procedures. *Represent Yourself in Court*, by Paul Bergman and Sara J. Berman-Barrett (Nolo), also has an excellent chapter on litigating in bankruptcy court.

1. Hearing on Relief From Stay

A creditor who wants to collect from you directly may request relief from the automatic stay in order to do so. This is called a “relief from stay” hearing. (For more on the automatic stay, see Chapter 1, Section B.) This could come up, for example, if you are behind on your mortgage or car payments. Because in a Chapter 7 bankruptcy you cannot fix your default and get back on track, the creditor may ask the court to let it begin, or continue, foreclosure or repossession proceedings.

The creditor asks for this type of hearing by filing a motion in the bankruptcy case. The creditor doesn't need to file a separate lawsuit, as it would with some other types of disputes within a bankruptcy case.

Because it is a motion hearing, the work you have to do to oppose the request and get your side of the case heard in court is not all that difficult. It does mean, however, that you'll need to do a little legal research.



Legal research need not be intimidating. For a plain-English guide to making your way through law books and other resources, see *Legal Research: How to Find & Understand the Law*, by Stephen R. Elias and Susan Levinkind (Nolo).

2. Dischargeability Hearing

In Chapter 3 we explained that some types of debts might survive your bankruptcy only if the creditor comes into court and challenges discharge of the debt. We also explained that student loans and certain other types of debts would be discharged only if you, the debtor, came into court and convinced the judge that they should be discharged. These court procedures are called “dischargeability” actions.

To start a dischargeability action, a creditor (or you, the debtor) must file a separate complaint in the bankruptcy court and move the case forward to trial before the bankruptcy judge. This requires a knowledge of court rules that involves considerable research and quite possibly one or two false starts, where the clerk returns your paperwork or the court tells you to try again. Dealing with formal court procedures can be quite frustrating for self-represented people. On the other hand, if there is enough money at stake, it may be worth your while to spend the time and deal with the frustration that comes with formal court litigation.

Of course, you can hire a bankruptcy attorney just for this part of your case, if there is enough at stake to justify paying the attorney’s fees.

3. Dismissal for Substantial Abuse

If you file a Chapter 7 case and it appears that you could pay off a substantial portion of your unsecured debts over several years, the trustee may request that the court dismiss your case for “substantial abuse” under Section 707 of the Bankruptcy Code. If this happens, the court may either dismiss your case or give you an opportunity to convert your case to Chapter 13. This type of court proceeding is handled by motion (a relatively informal process described in Section B1, above).

4. Discharge Hearing

Years ago, before bankruptcy filings increased so dramatically, debtors were required to attend a discharge hearing at the end of their case.

Today, most courts will require you to come to a discharge hearing only if you have agreed with a creditor to “reaffirm” a debt (agreed to take on the debt again). At the hearing, the judge will warn you of the consequences of reaffirmation: You’ll continue to owe the full debt, you may lose the collateral if you default on your payments, and in many states, the creditor can sue you for any balance due after the property is sold at auction. (For more on reaffirming a debt, see Chapter 5, Section C4.)

C. Going to Court in a Chapter 13 Bankruptcy

As we said before, it’s rare for someone to file a Chapter 13 bankruptcy without at least some help from a lawyer. (For more on what a lawyer does in Chapter 13, see Section E1, below.) Here’s an idea of the kinds of proceedings a lawyer could help you with:

1. Confirmation Hearing

Unlike Chapter 7, a Chapter 13 bankruptcy requires at least one appearance before a bankruptcy judge—the confirmation hearing. The confirmation hearing, automatically scheduled by the court, is where the court approves or rejects your proposed repayment plan. (Rejecting a plan is also called “denial of confirmation.”)

The trustee or a creditor may raise objections to your proposed plan, and often does. Typical objections include the following:

The plan was not submitted in good faith. Probably the most common objection raised is that a Chapter 13 plan was not proposed in good faith. Bankruptcy rules do not define “good faith,” but bankruptcy courts generally look to see if your proposed plan has a purpose other than sincerely trying for a fresh start. For example, one bankruptcy court ruled that a Chapter 13 case, filed for the sole purpose of getting around a judge’s decision in an ongoing state court case, was not filed in good faith. If you feel confident that you are filing your papers with the honest intention of getting back on your feet, and you really can make the payments under the plan, you probably will be able to overcome a “good faith” objection. When a creditor or trustee pursues good faith objections, most bankruptcy courts look at the following kinds of factors:

- How often you have filed for bankruptcy. Filing and then dismissing multiple bankruptcies does not, in itself, show bad faith. However, if you've filed and dismissed two or more other bankruptcy cases within one year, the court may find lack of good faith if there are inconsistencies in your papers or you can't show that your circumstances have changed since the previous dismissal.
- The accuracy of your bankruptcy papers and oral statements. The court is likely to find a lack of good faith if you misrepresent your income, debts, expenses, or assets, or if you lie at the creditors' meeting.
- Your efforts to repay your debts. If your plan will pay your unsecured creditors a small percentage of what you owe, you may have to show the court that you are stretching as much as you can. The court will want to see that you are not living luxuriously and that you are making substantial efforts to pay your unsecured creditors.

The plan is not feasible. The second most likely objection is that your plan is not feasible—that is, you won't be able to make the payments or comply with the other terms of the plan. To overcome a feasibility objection, your monthly income must exceed your monthly expenses by at least enough to allow you to make the payments required under Chapter 13 bankruptcy. For instance a debtor who owes a \$50,000 child support arrearage as well as \$25,000 in credit card debts must propose a plan that, at a minimum pays the \$50,000 in full over the life of the plan (because child support is a priority debt and priority debts must be paid in full).

The trustee or a creditor might also question your job stability, the likelihood that you'll incur extraordinary expenses, and whether you have any outside sources of money. If your plan seems to reflect too much wishful thinking, and your sources of money are uncertain, the court will probably reject the plan on the ground that it isn't feasible. Possible scenarios leading the court to find that your plan isn't feasible include:

- You have a business that has been failing, but you've predicted a rebound and intend to use business income to make your plan payments.

- You propose making plan payments from the proceeds of the sale of certain property, but nothing points to the likelihood of a sale.
- Your plan includes a balloon payment (a large payment at the end), but you have not identified a source of money with which to make the payment.
- You've been convicted of a crime, and you haven't convinced the bankruptcy court that you will stay out of jail.

The plan fails to promote the “best interest” of the creditors.

Under your Chapter 13 repayment plan, you must pay your unsecured creditors at least as much as they would have received had you filed for Chapter 7 bankruptcy—that is, the value of your nonexempt property. (Exempt and nonexempt property are discussed in Chapters 4 and 5.) This is called the “best interest of the creditors” test.

If the trustee or a creditor raises this objection, you will have to provide documents showing the values of the potentially nonexempt portions of your property, such as a recent appraisal of a home in which your equity is equal to or exceeds your state's homestead exemption, or a publication stating the value of an automobile of the same make, model, and year as yours.

The plan unfairly discriminates. Chapter 13 bankruptcy is designed so that all unsecured creditors are treated fairly, relative to each other. You might be inclined to pay some unsecured creditors more than others—for example 100% of a student loan (which isn't dischargeable anyway) but only 35% on your credit cards, which are dischargeable. In this situation, the trustee or the credit card issuers are likely to object to your plan on the ground that they are unfairly being discriminated against.

The confirmation hearing is presided over by the judge. However, the trustee usually runs the show. If the trustee tells the judge that he or she has no objection to your plan, and no creditor shows up to convince the judge that your plan is unfair, the judge will most likely approve the plan without a further hearing. But if the trustee has some problems with your plan, or a creditor raises issues of fairness, the judge will most likely send you back to the drawing board and reschedule (“continue,” in legalese)

the confirmation hearing to another date, when you will have to submit a modified plan.

If it becomes obvious that Chapter 13 bankruptcy isn't realistic for you—for example, you earn very little money to pay into a plan—the judge will order that your case be dismissed unless you can convert it to Chapter 7 bankruptcy before the date set for the dismissal.

2. Valuation Hearing

Especially in Chapter 13 bankruptcies, it may be necessary to determine the value of property that is collateral for a secured debt. This comes up, for example, where the collateral has lost value or depreciated. Your goal is to reduce what you owe on the collateral down to the level of the collateral's actual value, rather than to what you still owe on the contract. This frequently comes up in reference to cars that are worth less than you owe.



What evidence of value do I need? For cars, Kelley Blue Book appraisals are a good start (www.kbb.com). However, it's possible that the reason you couldn't reach agreement with the creditor as to the car's value has to do with the condition of the car, something that the Blue Book can't shed much light on. In that case, a private appraisal would be persuasive.

A valuation hearing is started by filing a motion, and can be handled in the same way as other motions. (For more on handling motions, see Section B1, above.) If you or a creditor requests a valuation hearing, your confirmation hearing will be postponed, or the court will hold the valuation hearing immediately before the confirmation hearing.

3. Hearing on Relief From Stay

A creditor who wants to try to collect from you directly may request relief from the automatic stay. The creditor will request a "relief from stay" hearing. (For more on the automatic stay, see Chapter 1, Section B. For more on handling a motion for relief from stay, see Section B1, above.) This could come up, for example, if you fall further behind on your mortgage or car payments after you file your bankruptcy papers.

4. Discharge Hearing

Discharge hearings—that is, hearings at the end of the bankruptcy, where the judge declares that your bankruptcy is, indeed, over—used to occur frequently. Today however, because of the high number of bankruptcy filings, few judges make you to come to court for a discharge hearing. You'll probably just receive a letter from the court letting you know that your case is over and that any balance remaining on your dischargeable debts has been discharged. You'll have to find out on your own which debts are gone and which ones lived on. (For more on the kind of debts not discharged in bankruptcy, see Chapter 3.)

D. Bankruptcy Petition Preparers

You may decide that you simply want help preparing your bankruptcy forms—to avoid all the typing and other basic preparation that's involved. In that case, you don't necessarily have to hire a lawyer. For this level of assistance, a bankruptcy petition preparer (BPP) can help you. BPPs are not lawyers, but they are familiar with the bankruptcy courts in your area. They can:

- type your forms using information that you provide about your debts, property, income, and expenses, and your economic transactions during the previous year (longer if you are a business).
- provide some basic information about local procedures and requirements, and
- help you prepare for any negotiations with your creditors that may be required.

Almost all bankruptcy courts limit what BPPs can charge. For that reason, you can almost always find a BPP who will type your bankruptcy papers for \$150 or less. BPPs are also prohibited from handling the filing fees, although some courts allow the BPP to accept your money order or cashier's check for the filing fees as long as the money order or check is made out to the court. In most jurisdictions, however, you have to file your case yourself, either by mail or by a visit to the court clerk.

BPPs are very different from lawyers. They can't advise you as to your bankruptcy options. For instance, they can't tell you:

- whether you would be better off filing a Chapter 13 or Chapter 7 bankruptcy
- which exemptions to choose
- what course of action to take regarding your secured property, or
- how likely you are to discharge a particular debt that might in fact be nondischargeable.

Only lawyers are allowed to provide this type of information and advice.

When you use a BPP, you are considered to be a self-represented debtor, which means you are responsible for gathering the necessary legal information and making the appropriate decisions in your case. You might get the information and advice you need from a bankruptcy lawyer or from a self-help law resource, such as this book or the procedural bankruptcy guides published by Nolo. But you cannot, legally, pass this responsibility on to a BPP.



See *How to File for Chapter 7 Bankruptcy*, by Stephen R. Elias, Albin Renauer, Robin Leonard, and Kathleen Michon (Nolo), and *Chapter 13: Repay Your Debts*, by Robin Leonard (Nolo).

BPP services are springing up all over the country to help people who don't want or can't afford to hire a lawyer, but you're still more likely to find a BPP if you live on the West Coast. To find a reputable BPP in your area, get a recommendation from someone who has used a particular one and been satisfied with his or her work.

BPPs sometimes advertise in classified sections of local newspapers and in the Yellow Pages. You may have to look hard to spot their ads, however, because the Bankruptcy Code bars them from using the term “legal” or any similar term or from advertising under any category that contains the word “legal” or a similar term. In California, your best bet is to find a Legal Document Assistant (the official name given to independent paralegals in California) who also provides BPP services. In Arizona, hunt for a Legal Document Preparer. In the other states, search for paralegals who directly serve the public (often termed independent paralegals or legal technicians). In many states, an independent paralegal franchise called We the People offers BPP services.

WHAT LAWYERS SAY ABOUT BANKRUPTCY PETITION PREPARERS

In many parts of the country, bankruptcy attorneys are extremely unhappy with the competition from BPPs. Often, the attorneys allege that BPPs are practicing law without a license or that they're incompetent.

Some BPPs probably are incompetent, just as some lawyers are. But the paperwork you'll get from a BPP is likely to be prepared just as competently as paperwork you'd get from a bankruptcy lawyer's office. Most lawyers hire paralegals to do their routine bankruptcy work anyway. How to fill out bankruptcy forms isn't taught in law school and doesn't involve any skill that only lawyers have.

E. Bankruptcy Lawyers

You may decide that you need a lawyer to help you complete the forms. Even if you think you can complete the forms on your own or by hiring a BPP, there still may be situations in which you may need a lawyer's help.

1. What a Lawyer Can Do for You

You already know that the forms and procedures vary a bit between Chapter 7 and Chapter 13 bankruptcy. The advantage of having a lawyer varies as well.

a. Chapter 7 Bankruptcy

You may need a lawyer in a Chapter 7 bankruptcy to prepare custom-made court papers (beyond the forms shown above), to argue your side of a dispute during your bankruptcy, or to negotiate with a creditor.

You might be able to hire an attorney to handle only a specific procedure, such as a motion for relief from stay or an action to discharge a particular debt, while you handle the main part of the bankruptcy yourself. As a general rule, you should bring an attorney into the case whenever a dispute involves something of sufficient value to justify the attorney's fees. If a creditor objects to the discharge of a \$500 debt, and it will cost you \$400 to hire an attorney, you may be better off trying to handle the matter yourself, even though this increases the risk that the

creditor will win. If, however, the dispute is worth \$1,000 and the attorney will cost you \$200, hiring the attorney makes better sense.

b. Chapter 13 Bankruptcy

Becoming knowledgeable about Chapter 13 bankruptcy will require a lot of work. Chapter 13 bankruptcy is fairly complex and has no shortcuts. Most people who file for Chapter 13 bankruptcy use an attorney from the beginning, for several reasons:

- The lawyer's fee can be paid over time through the Chapter 13 plan.
- Chapter 13 bankruptcy often requires a lot of negotiating with creditors and with the bankruptcy trustee, often to reach agreement on an acceptable repayment plan.
- Chapter 13 bankruptcy requires at least one appearance in court before the bankruptcy judge, and often several more.
- Chapter 13 cases can have many variables, such as valuation of property, reducing liens to the value of the collateral, creating non-discriminatory classes for different types of debtors and, often, requests for plan modifications or hardship discharges. An experienced lawyer can help you understand the specifics of your case, including the types of debts you have and the amount or percentage you must repay.

2. How to Find a Bankruptcy Lawyer

Where there's a bankruptcy court, there are bankruptcy lawyers. They're listed in the Yellow Pages under "Attorneys," and often advertise in newspapers. You should use an experienced bankruptcy lawyer, not a general practitioner, to advise you or handle matters associated with bankruptcy.

There are several ways to find the best bankruptcy lawyer for your job:

- **Personal referrals.** This is your best approach. If you know someone who was pleased with the services of a bankruptcy lawyer, call that lawyer first.
- **Bankruptcy petition preparers.** If there's a BPP in your area, he or she may know some bankruptcy attorneys who are both competent and sympathetic to self-helpers.

- **Legal Aid.** Legal Aid offices are partially funded by the federal Legal Services Corporation and offer legal assistance in many areas. A few offices may do bankruptcies, although most do not. To qualify for Legal Aid, you must have a very low income.
- **Legal clinic.** Many law schools sponsor legal clinics and provide free legal advice to consumers. Some legal clinics have the same income requirements as Legal Aid; others offer free services to low- to moderate-income people.
- **Group legal plans.** If you're a member of a plan that provides legal assistance for free or low cost and the plan covers bankruptcies, make that your first stop in looking for a lawyer.
- **Lawyer-referral panels.** Most county bar associations will give you the names of bankruptcy attorneys who practice in your area. But bar associations may not provide much screening. Take the time to check out the credentials and experience of the person to whom you're referred.

3. What to Look for in a Lawyer

No matter how you find a lawyer, here are three suggestions on how to make sure you have the best possible working relationship.

First, fight any urge you may have to surrender to or be intimidated by a lawyer. You should be the one who decides what you feel comfortable doing about your legal and financial affairs. Keep in mind that you're hiring the lawyer to perform a service for you, so shop around if the price or personality isn't right.

Second, it's important that you be as comfortable as possible with any lawyer you hire. When making an appointment, ask to talk directly to the lawyer. If you can't, this may give you a hint as to how accessible he or she is. Of course, if you're told that a paralegal will be handling the routine aspects of your case under the supervision of a lawyer, you may be satisfied with that arrangement.

If you do talk directly, ask some specific questions. Do you get clear, concise answers? If not, try someone else. Also pay attention to how the lawyer responds to your knowledge. If you've read this book, you're already better informed than most clients. Many lawyers are threatened when the client knows too much.

Finally, once you find a lawyer you like, make an hour-long appointment to discuss your situation fully. Generally the lawyer or a paralegal in the lawyer's office will tell you what to bring, if anything. Some lawyers will want you to bring a recent credit report while others will send you a questionnaire to complete prior to your visit. Depending on the circumstances you may also be asked to bring your bills, tax returns, and documents pertaining to your home and other real estate you own. Or, you may only need to bring yourself, since the lawyer may prefer not to deal with details during the first visit. Your main goal at the initial conference is to find out what the lawyer recommends in your particular case and how much it will cost. Go home and think about the lawyer's suggestions. If they don't make complete sense or you have other reservations, call someone else.

4. What Bankruptcy Attorneys Charge

Fees charged by bankruptcy attorneys for a routine Chapter 7 bankruptcy vary from about \$500 to \$1,000 (plus the \$209 filing fee). In most situations, you will have to pay the attorney in full before the attorney will file your case. The reason for this is that once you file your Chapter 7 bankruptcy, anything you owe the attorney is discharged along with your other dischargeable unsecured debts.



You can pay for a pre-filing bankruptcy service without getting in trouble with the bankruptcy court. This kind of payment is generally not considered a “preference” payment that the trustee will try to undo. However, if the trustee thinks you’ve overpaid a lawyer or BPP, the amount of overpayment can be recaptured for the bankruptcy estate.

For routine Chapter 13 cases, bankruptcy attorneys generally charge about \$1,000 to \$1,500 (plus the \$194 filing fee). The lawyer's fee is usually paid through the Chapter 13 plan.

You must include on your bankruptcy papers the amount you were charged by your bankruptcy lawyer. This is because every penny you pay a bankruptcy lawyer is a penny not available to your creditors. The court has the legal authority to make the attorney justify the fee. This rarely

happens, however, because attorneys know the range of fees generally allowed by local bankruptcy judges and set their fees accordingly.

This means that if you were shopping around for a bankruptcy lawyer and called five lawyers in your area and asked their fees, you would likely be quoted very similar amounts. If the first lawyer says he would charge you \$800, chances are good that the second one would charge you somewhere between \$700 and \$900. The third, fourth, and fifth lawyers probably wouldn't differ all that much.

EXTRA FEES IN COMPLICATED CASES

If you hire an attorney to prepare and file your bankruptcy, the scope and range of services that the attorney promises you in return for your initial fee will be listed in what's called a Rule 2016 attorney fee disclosure form. This form is filed as part of your bankruptcy papers. In the typical Chapter 7 case, the attorney's fee will include counseling, form preparation, attendance at the creditors' meeting, and preparation of forms needed for reaffirmation. These are the routine tasks associated with bankruptcy.

Any task not included in the Rule 2016 disclosure form is subject to a separate fee. If your case requires more attorney time because of one or more of the procedures we describe in this chapter, you may—and probably will be—charged extra, according to the attorney's hourly fee or other criteria he or she uses. A typical bankruptcy attorney charges \$200 an hour and would charge a minimum of roughly \$300 to \$400 for a court appearance. Since these fees are being earned after your bankruptcy filing, they won't be discharged in your bankruptcy and the attorney need not collect them up front. Many attorneys will, however, insist on advance payment. In that case, the attorney must file a supplemental Rule 2016 form to cover any post-filing fees that he or she charges you.

If you are overcharged for post-filing legal work, you can object to the court and perhaps get some of your money back.



Now is the time to complete the Chapter 8 questions on the “Should I File for Bankruptcy?” checklist in Appendix A at the end of the book. ■



Will I Be Able to Get Credit in the Future?

- A. Rebuilding Your Credit 9/2
 - 1. Keep Your Credit File Accurate 9/2
 - 2. Get Positive Information Into Your Credit File 9/3
- B. Where You May Run Into Problems 9/5

For many people, the one barrier that stands between them and filing for bankruptcy is the fear that they will never get credit again. It's no wonder people feel this way. The message that creditors, particularly credit card issuers, send is that bankruptcy is the "ten-year mistake."

There's no question that bankruptcy could possibly haunt you for up to ten years. A bankruptcy filing can legally remain on your credit record for ten years from the date you filed your papers, although most credit bureaus remove a Chapter 13 bankruptcy filing after seven years. Major creditors, such as banks and department stores, pressured credit bureaus into removing the Chapter 13 notation sooner. The idea was to give debtors an incentive to choose Chapter 13 bankruptcy over Chapter 7 bankruptcy.

But your bankruptcy filing will hurt your financial situation only if you let it. Although creditors, particularly credit card issuers, will never admit this, they readily make offers of credit to people who have been through bankruptcy. Look at it this way: After your case is over, you have no (or very little) debt and you can't file for Chapter 7 again for at least six years from the date you filed this bankruptcy. You're the perfect candidate for a new credit card or loan. If you don't find the offers of credit in your mail box, go out and find them.

A. Rebuilding Your Credit

Rebuilding your credit is the process of getting positive information into your credit file, as soon after your bankruptcy as possible. Creditors will put most weight on the recent positive data, and little weight on the bankruptcy and what came before it. Here are some basic steps you can take to rebuild your credit.

1. Keep Your Credit File Accurate

When you apply for credit, the creditor will contact a credit reporting agency (also called a credit bureau) and request a copy of your credit file. The information in the file is primarily what a creditor relies on most in deciding whether to grant or deny your credit request.

You want to get any incorrect or outdated information out of your credit file so that creditors and other users of credit files see you in the best possible light. Negative information that is older than seven years shouldn't be in your file, except for the bankruptcy filing, which can stay for up to ten years.



For more information on rebuilding your credit—including obtaining a copy of your credit file, requesting that the credit bureau correct mistakes, contacting creditors directly for help in cleaning up your credit, and getting positive information into your credit file—see [Credit Repair](#), by Robin Leonard (Nolo).

CREDIT BUREAUS' ADDRESSES AND PHONE NUMBERS

Equifax
P.O. Box 740241
Atlanta, GA 30374
800-685-1111
www.equifax.com

Trans Union
Consumer Disclosure Center
P.O. Box 2000
Chester, PA 19022
800-888-4213
www.transunion.com

Experian
National Consumer Assistance Center
P.O. Box 2002
Allen, TX 75013
888-397-3742
www.experian.com

2. Get Positive Information Into Your Credit File

Once your credit report is accurate (even if there's some negative stuff on it), you want to get some positive information into your credit file. One way is to use a credit card responsibly. That means making regular charges for items that are within your budget, and paying the bill in full, on time.

If you've hung onto a credit card from a bank, department store, or gasoline company through your bankruptcy case, use that card. Other-

wise, you can take advantage of the offers you get after your bankruptcy case is over, or apply for a card at a local bank. If you don't qualify for a regular card, look for something called a "secured" card. This requires that you deposit money into a savings account in exchange for the credit card. You have no access to the savings account. If you don't pay your bill, the bank uses the money in your account to cover what you owe.

Credit cards aren't the only source of positive data for a credit file. Consider a bank loan. A few banks offer something called a "passbook savings loan," which is a lot like a secured credit card. You deposit a sum of money into a savings account, and in exchange the bank makes you a loan. You have no access to your savings account while your loan is outstanding. If you don't repay the loan, the bank will tap into the money in your savings account.

In most cases, though, you'll have to apply for a standard bank loan. You may need a cosigner, or to offer some property as collateral.

CREDIT REPAIR AGENCIES

You've probably seen ads for companies that claim they can fix your credit, qualify you for a loan, and get you a credit card. Stay clear of these companies—you could get involved in illegal practices, such as using a dead person's Social Security number.

Though there are legitimate credit repair companies out there, finding one is not really worth the effort. They can't do anything for you that you can't do yourself. If items in your credit file are correct, these companies cannot get them removed. If items are incorrect, they follow the same steps we outlined for you above. About the only difference between using a legitimate credit repair agency and handling matters yourself is the hundreds or thousands of dollars those agencies charge.

Once you've started rebuilding your credit, you will find that creditors generally ignore your bankruptcy after two or three years. Over time, you'll find it increasingly easy to qualify for a personal loan, car loan, and even a mortgage. Mortgages, especially, aren't that difficult to get, even if you've been through bankruptcy. You may pay slightly higher interest or

more points, or may be required to put 20% or more down, but you should get a loan if you can afford the monthly payments. Lenders like making home loans, which are quite secure—a house is a valuable item of collateral.

B. Where You May Run Into Problems

People who work in the financial industry tend to understand what bankruptcy is and why people file. While they may not want you to go bankrupt on their debts, they are often forgiving of people who have faced financial hardship and decided to take care of it through bankruptcy. They also know that you can't file a Chapter 7 bankruptcy again for a while and that therefore there's a very high probability that you will pay back any new loan or extension of credit.

Unfortunately, people who don't work in the financial industry are fairly clueless about what bankruptcy is and why people file. They often make the assumption that only deadbeats and poor money managers go bankrupt. If you encounter one of these people in a position of authority over you, your life can be made miserable. You may be denied a job or an apartment if the person doing the hiring or renting gets wind of your bankruptcy.

In fact, the most common problem encountered by people who have been through bankruptcy is having a landlord deny their rental application. If a potential landlord does a credit check, sees your bankruptcy, and refuses to rent to you, there's not much you can do except try to show that you'll pay your rent and be a responsible tenant. You probably will need to go apartment hunting with a "renter's résumé" that shows you in the best possible light. Be ready to offer a cosigner, to find roommates, or to pay several months rent up front in cash.



Now is the time to complete the Chapter 9 questions on the "Should I File for Bankruptcy?" checklist in Appendix A at the end of the book. ■

10

Can Some Alternative Outside of Bankruptcy Do the Trick?

A. Do Nothing	10/2
B. Negotiate With Your Creditors	10/5
C. Get Outside Help to Design a Repayment Plan	10/6
1. Credit and Debt Counseling	10/6
2. Consumer Credit Counseling Service	10/8
3. Myvesta	10/9
4. Other Credit and Debt Counseling Agencies	10/9
D. File for Chapter 11 Bankruptcy	10/10
E. File for Chapter 12 Bankruptcy	10/11

If you've read the previous nine chapters, you may be leaning toward filing for a consumer Chapter 7 or a Chapter 13 bankruptcy. Before you conclude with certainty that bankruptcy is the right solution, take the time to read this chapter. For some people, filing for bankruptcy is the only sensible remedy for debt problems. For others, an alternative course of action makes better sense. This chapter will explore these alternate courses of action, including:

- doing nothing (Section A)
- negotiating with your creditors (Section B)
- getting outside help with a repayment plan (Section C)
- filing for Chapter 11 bankruptcy (Section D), and
- filing for Chapter 12 bankruptcy (Section E).

A. Do Nothing

Surprisingly, the best approach for some people deeply in debt is to take no action at all. You can't be thrown in jail for not paying your debts, except in the unusual situations described in Chapter 7.

Furthermore, except for taxing agencies and student loan creditors, creditors must first sue you in court and get a money judgment before they can start collection actions against your income and property. The big exception to this general rule is that a creditor can take back collateral—repossess a car or furniture, for example—when you default on a debt that's secured by that same collateral. (If you're worried about foreclosure on a house, see Chapter 4.)

Under the typical security agreement, the creditor can repossess the property without first going to court. But the creditor will not be able to go after your other property and income for any "deficiency" (the difference between what you owe and what the repossessed property fetches at auction) without first going to court for a money judgment.

Even if creditors get a money judgment against you, they can't take away such essentials as basic clothing, ordinary household furnishings,

personal effects, food, Social Security, unemployment benefits, public assistance, or 75% of your wages. The state exemptions described in Chapter 5 (and listed in Appendix B) apply both if you file for bankruptcy and if a creditor gets a money judgment against you. (However, neither the federal bankruptcy exemptions nor the California system 2 exemptions apply if a creditor sues you. Those are bankruptcy-only exemptions.)

If all of the property you own is exempt, you are commonly referred to as “judgment proof.” Whoever sues you and wins will be holding a useless piece of paper, simply because you don’t have anything that can legally be taken. While money judgments last a long time—typically ten years—and can be renewed, this won’t make any difference to you unless your fortunes change for the better. If that happens, you might reconsider bankruptcy at that time.

If your creditors know that their chances of collecting a judgment from you any time soon are slim, they probably won’t sue you in the first place. Instead, they’ll simply write off your debt and treat it as a deductible business loss for income tax purposes. After some years have passed (usually between four and ten), the debt will become legally uncollectible, under a state law called the statute of limitations.

Although this statute of limitations period would be extended if the creditor sought and obtained a judgment, that process would cost them hundreds of dollars and would appear to be throwing good money after bad. As a general rule, if a creditor decides, on the basis of your economic profile, not to go to court at the present time, the creditor will not seek a judgment down the line to extend their claims.



Time is not always on your side. A creditor may try to trick you into “acknowledging” a very old debt, or admitting that you owe it. This can make it a brand new debt and start the clock running again on the statute of limitations.

STOP BILL COLLECTOR HARASSMENT

You don't need to file for bankruptcy just to get annoying collection agencies off your back. Federal law forbids them from threatening you, lying about what they can do to you, or invading your privacy.

Under this law, you can legally force collection agencies to stop phoning or writing you by simply demanding that they stop, even if you owe them a bundle and can't pay a cent. (The law is the federal Fair Debt Collections Practices Act, 15 U.S.C. §§ 1692 and following.) For more information, see *Money Troubles: Legal Strategies to Cope With Your Debts*, by Robin Leonard (Nolo). Use the sample letter below to get harassing creditors off your back.

SAMPLE LETTER TO COLLECTION AGENCY TO TELL IT TO CEASE CONTACTING YOU

Sasnak Collection Service
49 Pirate Place
Topeka, Kansas 69000

November 11, 2004

Attn: Marc Mist

Re: Lee Anne Ito
Account No. 88-90-92

Dear Mr. Mist:

For the past three months, I have received several phone calls and letters from you concerning an overdue Rich's Department Store account.

This is my formal notice to you under 15 U.S.C. § 1692c to cease all further communications with me except for the reasons specifically set forth in the federal law.

This letter is not meant in any way to be an acknowledgment that I owe this money.

Very truly yours,

Lee Anne Ito
Lee Anne Ito

B. Negotiate With Your Creditors

If you have some income, or you have assets you're willing to sell, you may be a lot better off negotiating with your creditors than filing for bankruptcy. Negotiation may buy you some time to get back on your feet, or you and your creditors may agree on a complete settlement of your debts for less than the amount you owe.

Creditors hate it when debtors don't pay their debts. They don't like the hassle of instituting collection proceedings, or the fact that these proceedings tend to turn debt-owing customers into former customers. To avoid the collection process and to keep customers, creditors sometimes will reduce the debtor's expected payments, extend the time to pay, drop their demands for late fees, and make similar adjustments. They're most likely to be lenient if they believe you are making an honest effort to deal with your debt problems.

As soon as it becomes clear to you that you're going to have trouble paying a bill, write to the creditor. Explain the problem—whether it's an accident, job layoff, divorce, emergency expense for your child, unexpected tax bill, or whatever. Mention any development that points to an improving financial condition, such as job prospects. Also, consider sending a token payment. This tells the creditor that you are serious about paying but just can't now.



Token payments make a big difference, especially to local creditors.

On the other hand, if it's been a long time since you've made any payments, you might want to hold off on your token payment until you've checked on the "statute of limitations" for that debt (the time under state law after which the debt goes away if no court action has been filed to collect it). Your payment might have the unfortunate effect of starting up a new limitations period.

Your success with getting creditors to give you time to pay will depend on the types of debts you have, how far behind you are, and the creditors' policies toward debts that are in arrears.

If you are not yet behind on your bills, be aware that a number of creditors have a ridiculous policy that requires you to default—and in some cases, become at least 90 days past due—before they will negotiate

with you. If any creditor makes this a condition of negotiating, find out from the creditor how you can keep the default out of your credit report.

In addition, increasing numbers of creditors simply refuse to negotiate with debtors. Despite the fact that creditors get at least something when they negotiate settlements, many ignore debtors' pleas for help, continue to make telephone calls demanding payment (unless you assert your right under federal law to not receive the calls—see “Stop Bill Collector Harassment,” above) and leave debtors with few options other than to file for bankruptcy. In fact, nearly one-third of the people who filed for bankruptcy during the mid-1990s stated that the final straw that sent them into bankruptcy was the unreasonableness of their creditors or the collection agencies hired by their creditors.

Despite this trend, it remains in your best interest to contact your creditors and try to negotiate. Not all creditors are unreasonable.



How to negotiate with creditors and collection agencies, as well as how to stop bill collector abuse, is covered in detail in [*Money Troubles: Legal Strategies to Cope With Your Debts*](#), by Robin Leonard (Nolo).

C. Get Outside Help to Design a Repayment Plan

The combination of high consumer debt and easy access to information (especially on the Internet) has led to an explosion in the number of credit and debt counseling agencies ready to offer you help. Some provide limited services, such as budgeting and debt repayment, while others offer a range of services, from debt counseling to financial planning.

1. Credit and Debt Counseling

Before you choose a credit counselor or debt management plan off the Web, be aware that some of these agencies are legitimate, but many are not. Rather than attempt to separate all the wheat from the chaff, we will describe the typical debt management process and focus on a small handful of debt and credit counseling agencies that have a known track record.

a. How Debt Management Works

To use a credit or debt counseling agency to help you pay your debts, you must have some disposable income. A counselor will contact your creditors to let them know that you've sought assistance and you need more time to pay. Based on your income and debts, the counselor, with your creditors, decides on how much you must pay. You must then make one payment each month to the counseling agency, which in turn will pay your creditors. The agency will ask the creditors to return a small percentage of the money received to the agency office, in order to fund its work. This arrangement is generally referred to as a "debt management program."

Some creditors will make overtures to help you when you're participating in a debt management program. For example, Citicorp waives minimum payment and late charges—and may freeze interest accrual—for customers undergoing credit counseling. But few creditors will make interest concessions, such as waiving a portion of the accumulated interest to help you repay the principal portion of the debt. More likely, you'll get the late fees dropped and the opportunity to reinstate your credit if you successfully complete a debt management program.

Participating in a credit or debt counseling agency's debt management program is a little bit like filing for Chapter 13 bankruptcy. (See Chapter 1, Section A.) But working with a credit or debt counseling agency has one big advantage: No bankruptcy will appear on your credit record.

b. Disadvantages of Debt Management

A debt management program has two disadvantages when compared to Chapter 13 bankruptcy. First, if you miss a payment, Chapter 13 would protect you from unsecured creditors who would otherwise start collection actions. A debt management program has no such protection, so any one creditor can pull the plug on your plan. Also, a debt management program plan usually requires that your unsecured debts be ultimately paid in full. In Chapter 13 bankruptcy, other than priority debts, which must be paid 100%, you're required to pay only the value of your nonexempt property. This may mean that you pay only a small fraction of your nonpriority unsecured debts.

Critics of credit and debt counseling agencies point out that they get most of their funding from creditors. (Some offices also receive grants from private agencies such as the United Way and federal agencies including the Department of Housing and Urban Development.) Nevertheless, critics claim that counselors can't be objective in counseling debtors about whether to file for bankruptcy if they know the office will only get paid if the debtor chooses not to file for bankruptcy. In response to this and other consumer concerns, credit and debt counseling agencies accredited by the National Foundation for Consumer Credit (the majority of agencies are) reached an agreement with the Federal Trade Commission to disclose the following to consumers:

- that creditors fund a large portion of the cost of their operations
- that the credit agency must balance the ability of the debtor to make payments with the requirements of the creditors that fund the office, and
- a reliable estimate of how long it will take a debtor to repay his or her debts under a debt management program.



Don't pay hundreds of dollars up front. Requests for large advance payments are one sign of a possible ripoff. The agency may take your money and never pass a cent on to your creditors. A reputable debt-counseling agency should charge only a small upfront or maintenance fee. However, if the agency also provides other services to help you arrive at and maintain a feasible budget, you may be asked to pay a bigger fee up front.

2. Consumer Credit Counseling Service

Consumer Credit Counseling Service (CCCS) is the oldest credit or debt counseling agency in the country. Actually, CCCS isn't one agency. CCCS is the primary operating name of many credit and debt counseling agencies affiliated with the National Foundation for Consumer Credit (NFCC).

CCCS may charge you a start-up fee (typically \$25) and a small monthly fee (an average of about \$15) for setting up a repayment plan. CCCS also helps people develop monthly budgets. If you can't afford the

fee, CCCS may waive it. In most CCCS offices, the primary service offered is a debt management program. A few offices have additional services, such as helping you save money toward buying a house, or reviewing your credit report.

CCCS has more than 1,100 offices, located in every state. Look in the phone book to find the one nearest you, or contact the main office at 801 Rueder Road, Suite 900, Silver Spring, MD 20910, 301-589-5600 (voice), 800-388-2227 (24-hour automated listings), or visit www.nfcc.org.

3. Myvesta

Myvesta (formerly called Debt Counselors of America) offers budgeting and debt management programs, like other debt and credit counseling agencies. But unlike most other agencies, Myvesta has a financial planning department with Certified Financial Planners and a Crisis Relief Team to assist consumers who are turned away by other credit or debt counseling agencies, or who have very complex problems.

Myvesta can help people manage their money by doing everything from balancing their checkbooks and paying bills to evaluating purchases and loans. Although Myvesta offers some free services, the average Myvesta client pays about \$500. It also offers a lifestyle makeover program called the Comprehensive Bankruptcy Alternative. The average comprehensive client pays \$5,500 in fees and has \$52,000 in credit card debt. Contact Myvesta at 800-MYVESTA or www.myvesta.org.

4. Other Credit and Debt Counseling Agencies

Surf the Internet and you'll find many other credit and debt counseling agencies offering a variety of services. Be sure to ask questions about their services before signing up.

Three other agencies with national recognition are as follows:

Genus Credit Management

800-570-3341 (credit management program)

800-335-6081 (money management help line)

www.genus.org

Genus offers a free debt management program, with payments deducted automatically from your checking or savings account. Genus

also provides mortgage repayment assistance, publications, videos, a monthly newsletter, and workshops. Genus is owned by another credit counseling agency, American Financial Solutions (AFS) of Seattle.

Money Management International
9009 West Loop South, 7th Floor
Houston, TX 77096-1719
800-762-2271 (voice)
www.moneymanagement.org

MMI is affiliated with Consumer Credit Counseling Service (see Section C2, above). It provides credit counseling, debt management, and economic education information by telephone, email, and mail, 24 hours a day, seven days a week. MMI's Internet site includes a debt counseling application and a message board where you can send your money questions to "Ask Susan."

The Center for Debt Management
Family Debt Arbitration and Counseling Services, Inc.
119 Camp Sargent Road
Merrimack, NH 03054
603-483-0593 (voice)
admin@center4DebtManagement.com (email)
<http://center4debtmanagement.com>

CDM offers several services on its Internet site: debt counseling, debt management and repayment plan, publications, consumer alerts, and links to consumer protection agencies and other sites of interest.

D. File for Chapter 11 Bankruptcy

Chapter 11 bankruptcy is ordinarily used by financially struggling businesses to reorganize their affairs. However, it is also available to individuals. Individuals who consider Chapter 11 bankruptcy usually have debts in excess of one or both of the Chapter 13 bankruptcy limits—\$290,525 of unsecured debts and \$871,550 of secured debts—or substantial nonexempt assets, such as several pieces of real estate.

The initial filing fee is currently \$839, compared to \$209 for Chapter 7 or \$194 for Chapter 13 bankruptcy. In addition, you must pay a quarterly

fee, based on a percentage of the disbursements made to pay your debts. The fee runs from \$250 a quarter when the disbursements total less than \$15,000, to \$10,000 a quarter when disbursements total \$5,000,000 or more. The fee must be paid until your reorganization plan is either approved or dismissed, or your case is converted to Chapter 7 bankruptcy. Most attorneys require a minimum \$7,500 retainer fee to handle a Chapter 11 bankruptcy case. Add to that the Chapter 11 bankruptcy court fees, which in one year could run from \$1,000 to \$10,000.



If you want to read more about this kind of bankruptcy, see *A Feast for Lawyers: Chapter 11, An Expose*, by Sol Stein (M Evans, & Co. Inc).



You'll need a lawyer to file for Chapter 11 bankruptcy. A Chapter 11 bankruptcy often turns into a long, expensive, lawyer-infested mess, and many Chapter 11 filings end up being converted to Chapter 7 bankruptcy. Even to file a "fast-track" Chapter 11 bankruptcy for small businesses with debts up to \$2 million, you will need an attorney.

E. File for Chapter 12 Bankruptcy

Chapter 12 bankruptcy is almost identical to Chapter 13 bankruptcy. To be eligible for Chapter 12 bankruptcy, however, at least 80% of your debts must arise from the operation of a family farm. The fee for filing a Chapter 12 case is \$230.



See a lawyer if you want to file for Chapter 12 bankruptcy.



Now is the time to complete the Chapter 10 questions on the "Should I File for Bankruptcy?" checklist in Appendix A. ■

Possible New Bankruptcy Laws

A. Bankruptcy May Become More Difficult and Expensive	11/3
B. New “Means Test” to Qualify for Chapter 7	11/3
C. Strict Expense Guidelines for Chapter 13	11/5
D. Longer Chapter 13 Bankruptcies	11/5
E. Mandatory Credit Counseling	11/5
F. Less Protection From the Automatic Stay	11/5
G. More Debts That Can’t Be Discharged.....	11/6
H. More Time Required Between Bankruptcies	11/7
I. New Tax Return Requirements	11/7
J. Homestead Exemption Limit	11/8

For years Congress has considered legislation that would significantly change the consumer bankruptcy laws—both Chapter 7 and Chapter 13. Several times, the members of Congress have come close to agreeing on something, only to have negotiations fall apart at the last moment. Despite repeated failures, these efforts still continue. In early 2003, the House of Representatives sent the Senate the latest version of the same legislation that was defeated in a stalemate in the previous Congress. The reintroduced law would make sweeping changes to the existing bankruptcy law. As of September 2003, the legislation is stalled in the Senate. If and when Congress produces a final bill, and if the President signs it, the changes will take effect 180 days later.



You can find the pending bill (H.R.975) by visiting <http://thomas.loc.gov> and entering the bill number in the search box. Use this book's review of the legislation as a general guide as to what to you might expect in the future. For current information about the legislation, see the Legal Updates area of Nolo's website (www.nolo.com).

Over the years, the various versions of this bill have been heavily backed by the National Chamber of Commerce and the credit card and banking industry. In fact, in the last Congress, about two thirds of the legislators who were considering the bill had accepted substantial campaign contributions from these sources. While large donations don't necessarily result in specific legislative actions, most observers believe that in this case, many legislators are simply delivering for their paymasters. One reason for this conclusion is that the bill is friendly to the banks, credit card companies, and big business and unremittingly unfriendly to debtors. The legislation would:

- make previously simple bankruptcy proceedings much more complex
- prohibit some people from filing for bankruptcy
- add to the list of debts that people cannot wipe out in bankruptcy
- make it harder for people to come up with manageable repayment plans, and
- limit the protection from bill collection for those who file for bankruptcy.

This chapter summarizes just a few of the provisions contained in the legislation. As you read the discussion below, keep in mind that at least a few of these provisions may change if the bill becomes law after the Senate has its say.

IF YOU PLAN TO FILE FOR BANKRUPTCY

The proposed bankruptcy law would make it more difficult, or even impossible, for many people to file for bankruptcy. If you are considering bankruptcy, now is the time to decide whether you are a good candidate or not.

If you decide that bankruptcy is your best option, keep close tabs on the bankruptcy legislation. If it is signed into law, in most cases you should file before the new rules take effect.

A. Bankruptcy May Become More Difficult and Expensive

If and when the new law takes effect, the entire bankruptcy process would become more difficult. There would be more forms to fill out, more documents (such as tax returns and proof of income) to provide, more contested hearings to deal with in court, and more opportunities for the trustee and creditors to challenge debtors' cases. In order to advance their cases or defend against some challenges, debtors would need at least some assistance from a lawyer—which never comes cheap.

To make matters worse, because the legislation would impose new requirements and duties on attorneys representing bankruptcy debtors, those attorneys would have to increase their fees for what used to be routine work. The unhappy result: It would be more difficult to represent yourself in a bankruptcy case and more expensive to hire an attorney.

B. New “Means Test” to Qualify for Chapter 7

The new law would prohibit some people—those who don't meet the new “means test”—from filing for Chapter 7 bankruptcy. Whether you could meet the means test would depend on:

- the median income in your state
- your income
- the total value of your unsecured debts
- your household expenses.

If your income were less than the median income for your state and family size, you would pass the means test for Chapter 7 bankruptcy. The median income varies by state and by household size, ranging from approximately \$47,000 in New Mexico to \$83,000 in Connecticut for a family of four. To learn your state's median income for a family of four (figures aren't currently available for other-sized families), visit the Census Bureau's website at www.census.gov, click on "income," and scroll down until you find the link for the median income for families of four.

If your income were more than the median income for your state and family size, you would have to analyze your income and debts according to a specific formula. If you could pay a small amount of your debts over a five-year period, after subtracting certain living expenses and other deductions from your household income, you wouldn't qualify for Chapter 7 bankruptcy.

The proposed new bankruptcy law has strict guidelines for calculating your monthly income and for determining what monthly payments you'd be able to deduct. (Usually, you would be able to deduct things like your mortgage, car payment, overdue child support, and delinquent taxes.) And, although the new law would allow you to deduct certain monthly living expenses, the amount allowed for some expenses (such as food, clothing, housing, utilities, and transportation) would be set according to IRS guidelines, and not by what you would actually be spending. If you were to file for Chapter 7 bankruptcy after the new law had taken effect (and if your income were above your state's median income), you'd need to go through the formula carefully and would probably need the assistance of a good self-help bankruptcy resource or a bankruptcy professional.

If you couldn't qualify for Chapter 7 under these new rules, you would be pushed into Chapter 13 bankruptcy, which always requires you to come up with a repayment plan.

C. Strict Expense Guidelines for Chapter 13

Currently, debtors must pay all of their “disposable income” into their Chapter 13 plans. Disposable income is calculated by subtracting reasonably necessary expenses from income. The bankruptcy court determines whether expenses are reasonable. (See Chapter 2, Section B3.)

Under the new law, if your household income were higher than the state median income, the court’s discretion would be replaced by stringent guidelines. These guidelines would be established by the IRS for each region of the country, to be used in its “offer in compromise” program. Especially if you are residing where the cost of living is high, you will find it very difficult, or impossible, to keep your expenses within the guidelines—meaning that Chapter 13 bankruptcy would not be a realistic option.

D. Longer Chapter 13 Bankruptcies

Under current law, the typical Chapter 13 repayment plan lasts for three years, although some last as long as five years (see Chapter 1, Section A2). The new legislation would increase the standard repayment plan length to five years for people earning more than the state median income. This would require the people to pay back a larger portion of their debts. For people earning less than the state median income, the standard plan would still be three years.

E. Mandatory Credit Counseling

The new law would require most people to get credit counseling from a nonprofit agency within the six-month period before filing for bankruptcy. In addition, debtors would have to complete a course on personal financial management before getting a Chapter 7 or Chapter 13 bankruptcy discharge.

F. Less Protection From the Automatic Stay

The new law would place new limits on the automatic stay. (For a discussion of the current protection offered by the automatic stay, see

Chapter 1, Section B.) Among other things, the automatic stay would no longer postpone:

- **evictions lawsuits.** Filing for bankruptcy wouldn't stall or stop an eviction lawsuit.
- **licenses.** Actions to withhold, suspend, or restrict a driver's license or professional, occupational, or recreational license could still go forward.
- **family-related lawsuits.** Lawsuits to establish paternity, determine child custody or child support, obtain a divorce, or deal with domestic violence would still be allowed.

G. More Debts That Can't Be Discharged

Certain debts always survive Chapter 7 bankruptcy, with some narrow exceptions. (See Chapter 3, Section A, for a list of those debts under current law.) The new law would prevent the discharge of:

- **student loans** that are not guaranteed by the federal government (currently, only federally guaranteed student loans cannot be discharged, although most student loans are federally guaranteed), and
- **all child support and alimony debts.** Currently, some child support obligations can be cancelled if they are part of a divorce agreement, but not ordered by the court. (See Chapter 3, Section A2.)

In addition, debts that may survive discharge if the creditor successfully objects would be expanded to include:

- **debts of \$500** or more, from buying luxury goods or services (such as vacations and expenses for hobbies or entertainment) within 90 days of filing (under current law, the limit is \$1,150 within 60 days of filing), and
- **cash advances of \$750** or more, within 70 days of filing. (Under current law, the limit is \$1,150.)

Also under current law, creditors may object to the discharge of certain debts in Chapter 7, but not in Chapter 13. (See Chapter 3, Section B, to learn which debts you'd owe at the end of your Chapter 13 plan.) Under the new law, creditors in a Chapter 13 case would now be able to object to the discharge of whatever portion of the following debts that isn't paid back under the Chapter 13 plan:

- debts obtained through fraud or false statements
- debts of \$500 or more incurred for luxury goods and services within 90 days of filing
- cash advances of \$750 or more made within 70 days of filing, and
- damages in a civil case for willful or malicious conduct by the debtor that caused personal injury or death.

The following debts would also be nondischargeable in a Chapter 13 case, without the need for the creditor to take any action:

- debts for “restitution” (payments to someone wronged, such as victims of a crime), and
- taxes assessed after a fraudulent tax return, or a return that was never filed or filed late (after all extensions had expired).

H. More Time Required Between Bankruptcies

Currently, you are barred from filing for Chapter 7 bankruptcy if you have received a Chapter 7 discharge within the previous six years. (For more on eligibility to file, see Chapter 2, Section A2.) You can file a Chapter 13 case at any time, regardless of previous discharges.

Under the new rules, however, you would be barred from filing for Chapter 7 bankruptcy for eight years. Subsequent Chapter 13 filings would also be limited under the new law. You would have to wait for four full years from the date you filed an earlier Chapter 7 bankruptcy (assuming you received a discharge in the case), and a full two years from the date you filed an earlier Chapter 13 (assuming you received a discharge). Under current law, you can file a Chapter 13 the day after you receive a Chapter 7 discharge (this is often referred to as a Chapter 20 filing, because 7 plus 13 equals 20).

I. New Tax Return Requirements

Under the new law, anyone filing for Chapter 7 bankruptcy would have to provide a tax return for the most recent taxable year. Those filing for Chapter 13 would need to be current on tax returns for the previous four years.

In addition, debtors would have to file with the court all tax returns that become due while their bankruptcy cases are ongoing. Otherwise, any taxing authority could request dismissal of their case.

J. Homestead Exemption Limit

The new bill would cap the amount of equity debtors can protect in their homes at \$125,000. (Homestead exemptions are discussed in Chapter 4, Section A1.)

In most states, the homestead exemption is lower than the proposed cap, so the new law would have no effect on filers in those states. But it would affect people filing in states with unlimited homestead exemptions, or with homestead exemptions greater than \$125,000. (The current exemption table for your state is in Appendix B.)



Now is the time to complete the Chapter 11 questions on the “Should I File for Bankruptcy?” checklist in Appendix A at the end of the book. ■

**Appendix
A**

Checklist

CHECKLIST: SHOULD I FILE FOR BANKRUPTCY?

Chapter 1: What Is Bankruptcy?	Yes, describes my situation	No, that's not my situation
My debts are too much for me to handle.		
My creditors are ruining my life.		
Comment: If your debts are too much for you to handle, this may be justification enough for you to file for bankruptcy. Before you do, however, make sure that bankruptcy will get rid of or help you get a handle on your debts (Chapter 3) and that there isn't another option you could use to achieve the same result (Chapter 10). If your creditors are making your life miserable, bankruptcy will stop them cold. Certain types of creditors can get permission from the bankruptcy court to resume collection efforts after you file, however. So before you file, make sure that bankruptcy will keep the creditors you're worried about off your back (Chapter 1, Section B).		
Chapter 2: Who Can File for Bankruptcy?	Yes, describes my situation	No, that's not my situation
I qualify for Chapter 7 bankruptcy—I did not receive a bankruptcy discharge during the previous six years nor was a bankruptcy case dismissed against me during the previous 180 days.		
I qualify for Chapter 13 bankruptcy—I have regular and disposable income and my debts aren't too high.		
Comment: If both of these statements describe your situation, then you qualify for both types of bankruptcy and need to figure out which one makes more sense given your situation (Chapter 1, Section A, can help). If only one statement describes your situation, then you are limited to filing that one type of bankruptcy—but again, only if it makes sense to do so.		
Chapter 3: Will I Wipe Out My Debts?	Yes, describes my situation	No, that's not my situation
I could eliminate or substantially reduce my debts.		
There's little chance creditors would object to my bankruptcy.		
I'm not concerned about sticking a codebtor with a debt.		
Comment: Chapter 7 bankruptcy is a powerful remedy to get rid of your debts. But if you use it now, you will be barred from filing another Chapter 7 case for six years. Make sure you've stopped incurring debt and that you'll be able to wipe out or substantially reduce your debts by filing. Also, if you have good reason to believe that a creditor will object to your case, or that you'll be sticking it to a codebtor, Chapter 7 bankruptcy may be a less attractive option—you'll probably want to weigh all of the pros and cons presented on this checklist.		
Chapter 4: Will I Lose My House or Apartment?	Yes, describes my situation	No, that's not my situation
I have little or nonexempt equity in my house (Chapter 7 consideration only).		
I'm current on my mortgage or rent payments, or I could get current either before I file or during my case.		
Comment: Under bankruptcy's technical rules, your choice to file or not to file, or to file a Chapter 7 case versus a Chapter 13 case, could determine whether or not you get to keep your house. If holding on to your house is important to you, make sure you understand the concepts of "equity," "homestead exemption," and "foreclosure" before proceeding. Similarly, if you are considering filing for bankruptcy to avoid an eviction, be sure you understand the limits of this strategy.		

Chapter 5: Can I Keep My Car and Other Property?	Yes, describes my situation	No, that's not my situation
I'm not likely to lose my car.		
I'm not likely to lose the tools of my trade.		
I'm not likely to lose my pension.		
I have no or very little other property I'm likely to lose.		
I might lose some property, but I can live with that.		
Comment: In general, very few debtors give up any property in a Chapter 7 bankruptcy. Similarly, Chapter 13 bankruptcy is designed so that you don't lose any property and instead use income to repay your debts. But these are general rules. If you have property you desperately want to hold on to, make sure you understand the exemption rules for your state; how Chapter 7 bankruptcy deals with secured property, such as a car subject to a car note; and how you can use Chapter 13 bankruptcy to make up the arrears owed on a secured debt.		
Chapter 6: Can I Keep My Credit Cards?	Yes, describes my situation	No, that's not my situation
I'm not current on my credit cards, so trying to keep them through bankruptcy isn't a concern for me.		
I'm current on a credit card, but I don't care if I lose it.		
I don't think my credit card issuers could successfully object to my discharging their debts—I haven't incurred credit card debt recently, I wasn't insolvent when I incurred credit card debt, and I always intended to repay my credit card debts.		
Comment: The desire to hold on to a credit card should not be a deciding factor in determining whether or not to file for bankruptcy. If you're concerned that a creditor might object to your bankruptcy case or at least to the discharge of a credit card debt, however, you may want to explore the likelihood of this—or more importantly, the likelihood of the creditor succeeding—before you file.		
Chapter 7: Will I Lose My Job, Children, Freedom, or Self-Respect?	Yes, describes my situation	No, that's not my situation
I'm not worried that bankruptcy will affect my ability to get a job in the future.		
I'm not contemplating a divorce (Chapter 13 consideration only).		
I'm not concerned about neighbors or others in my community finding out.		
Comment: Saving face can be a powerful motivator in our culture. Only you can decide if these potential harms—such as people in your community possibly learning of your bankruptcy—outweigh the benefits.		
Chapter 8: Is It Too Hard to File?	Yes, describes my situation	No, that's not my situation
I think I can file on my own.		
I can afford to pay a lawyer or BPP the full amount when I file.		
I want to pay the lawyer's fee over time (Chapter 13 consideration only).		
Comment: Filing a Chapter 7 bankruptcy on one's own usually is not difficult. But if filing on your own seems overwhelming or simply isn't what you want to do, you may be able to find an inexpensive alternative to using a lawyer—a bankruptcy petition preparer. If using a lawyer seems absolutely necessary and you can't afford to pay the lawyer's fee all at once, Chapter 13 bankruptcy gives you the option to pay it off over time with your other debts.		

Chapter 9: Will I Be Able to Get Credit in the Future?	Yes, describes my situation	No, that's not my situation
I don't care about getting credit any time soon.		
I'm confident I will be able to improve my credit after my case is over.		
I'm not likely to need to find new rental housing anytime soon.		
Comment: Many creditors will tell you that you won't be able to get credit in the future if you file for bankruptcy. There is almost no truth to this statement.		
Chapter 10: Can Some Alternative Outside of Bankruptcy Do the Trick?	Yes, describes my situation	No, that's not my situation
I'm not judgment proof.		
My creditors won't negotiate with me.		
A debt counseling agency can't or won't help me.		
Comment: Bankruptcy is a powerful remedy. Make sure it's the one you really need.		
Chapter 11: Possible New Bankruptcy Laws	Yes, describes my situation	No, that's not my situation
I would no longer qualify under a "needs-based bankruptcy."		
I can't imagine being in Chapter 13 bankruptcy for as long as five years.		
I have debts I incurred within the past 90 days I need to discharge.		
I received a Chapter 7 discharge within the previous eight years.		
Comment: If the law changed and you would no longer qualify for bankruptcy or you might not benefit as much as you could under the current law, you will want to file as soon as possible—if you've concluded that bankruptcy is the right solution for you.		
Final Considerations	Yes, describes my situation	No, that's not my situation
The benefits of bankruptcy outweigh what I might give up.		
I still have questions about bankruptcy that this book doesn't answer.		
Comment: Deciding whether or not to file for bankruptcy almost always involves weighing the pros and cons. If your debts are unmanageable, and you'll be likely to get rid of your debts while keeping your property, then the more it may make sense to file. If, however, you think you could pay off your debts outside of bankruptcy if you worked hard at it, or if you won't eliminate enough debts or you might lose property you really want to keep, then it may make little sense to file. If you have questions or concerns that this book doesn't answer, you owe it to yourself to get answers before filing for bankruptcy. Bankruptcy lawyers are one good source of information. So are Nolo's other bankruptcy publications, How to File for Chapter 7 Bankruptcy or Chapter 13 Bankruptcy: Repay Your Debts. If you're willing to do some research in a law library or on the Internet, you may find the answers for yourself. The bottom line? Don't file for bankruptcy, or choose a particular form of bankruptcy, unless you're convinced it's the right thing to do.		



State and Federal Exemption Tables

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Using the Exemption Tables

Every state lets people who file for bankruptcy keep certain property, called exemptions.

1. What This Appendix Contains

- lists of each state's exemptions
- list of the federal bankruptcy exemptions (available as a choice in 14 states and the District of Columbia)
- list of the federal nonbankruptcy exemptions (available as additional exemptions when the state exemptions are chosen).

Each list is divided into three columns. Column 1 lists the major exemption categories: homestead, insurance, miscellaneous, pensions, personal property, public benefits, tools of the trade, wages, and wild card. (These categories differ on the federal nonbankruptcy exemptions chart.)

Column 2 gives the specific property that falls into each large category, with noted limitations.

For example, the federal bankruptcy exemptions allow married couples filing jointly to each claim a full set of exemptions. This is called “doubling.” Many state exemption systems do not allow doubling or do not allow doubling for certain types of property, such as the homestead exemption (which exempts equity in your residence). In some states, the legislature has expressly allowed or prohibited doubling. In others, the courts have allowed or prohibited doubling. In still others, neither the courts nor the legislature has addressed the issue. If that is the case, doubling is probably allowed. In Column 2, we’ve noted whether a court or state legislature has expressly allowed or prohibited doubling. If the chart doesn’t say, it is probably safe to double. However, keep in mind that this area of the law changes rapidly—legislation or court decisions regarding doubling issued after the publication date of this book will not be reflected in the chart.

Column 3 lists the applicable law, which must be included on Schedule C.

2. Choosing Between State and Federal Exemptions

Each state chart indicates whether the federal exemptions are available for that state. The list of federal exemptions follows Wyoming.

3. Houses and Pensions

If you own a house, you should also read Chapter 4, *Will I Lose My House or Apartment?*.

With pensions, some states exempt only the money building up in the pension fund, and a few exempt only payments actually being received. Most exempt both. If the pension listing doesn't indicate otherwise, it means the state exempts both.

4. Wages, Benefits, and Other Payments

Many states exempt insurance proceeds, pension payments, alimony and child support payments, public benefits, or wages. This means that payments you received before filing are exempt if you haven't mixed them with other money or, if you have mixed them, if you can trace the exempt portion back to its source.

If, when you file for bankruptcy, you're entitled to receive an exempt payment but haven't yet received it, you can exempt the payment when it comes in by amending Schedules B (personal property you own or possess) and C (property you claim as exempt).

Alabama

Federal Bankruptcy Exemptions not available. All law references are to Alabama Code.

ASSET	EXEMPTION	LAW
homestead	Real property or mobile home to \$5,000; property cannot exceed 160 acres (husband & wife may double)	6-10-2
	Must record homestead declaration before attempted sale of home	6-10-20
insurance	Annuity proceeds or avails to \$250 per month	27-14-32
	Disability proceeds or avails to an average of \$250 per month	27-14-31
	Fraternal benefit society benefits	27-34-27
	Life insurance proceeds or avails	6-10-8; 27-14-29
	Life insurance proceeds or avails if clause prohibits proceeds from being used to pay beneficiary's creditors	27-15-26
	Mutual aid association benefits	27-30-25
pensions	IRAs and other retirement accounts	19-3-1
	Judges (only payments being received)	12-18-10(a),(b)
	Law enforcement officers	36-21-77
	State employees	36-27-28
	Teachers	16-25-23
personal property	Books of debtor and family	6-10-6
	Burial place for self and family	6-10-5
	Church pew for self and family	6-10-5
	Clothing of debtor and family	6-10-6
	Family portraits or pictures	6-10-6
public benefits	Aid to blind, aged, disabled; and other public assistance	38-4-8
	Crime victims' compensation	15-23-15(e)
	Southeast Asian War POWs' benefits	31-7-2
	Unemployment compensation	25-4-140
	Workers' compensation	25-5-86(b)
tools of trade	Arms, uniforms, equipment that state military personnel are required to keep	31-2-78
wages	With respect to consumer loans, consumer credit sales, and consumer leases, 75% of weekly net earnings or 30 times the federal minimum hourly wage; all other cases, 75% of earned but unpaid wages; bankruptcy judge may authorize more for low-income debtors	5-19-15; 6-10-7
wild card	\$3,000 of any personal property, except wages (husband & wife may double)	6-10-6

Alaska

Alaska law states that only the items found in Alaska Statutes §§ 9.38.010, 9.38.015(a), 9.38.017, 9.38.020, 9.38.025, and 9.38.030 may be exempted in bankruptcy. In *In re McNutt*, 87 B.R. 84 (9th Cir. 1988), however, an Alaskan debtor used the federal bankruptcy exemptions. All law references are to Alaska Statutes.

Alaska exemption amounts are adjusted regularly by administrative order. Current amounts are found at 8 Alaska Admin. Code tit. 8, § 95.030.

ASSET	EXEMPTION	LAW
homestead	\$64,800 (joint owners may each claim a portion, but total can't exceed \$64,800)	09.38.010(a)
insurance	Disability benefits	09.38.015(b); 09.38.030(e)(1),(5)
	Fraternal benefit society benefits	21.84.240
	Life insurance or annuity contract[s], total aggregate cash surrender value to \$12,000	09.38.025
	Medical, surgical, or hospital benefits	09.38.015(a)(3)
	Alimony, to extent wages exempt	09.38.030(e)(2)
miscellaneous	Child support payments made by collection agency	09.38.015(b)
	Liquor licenses	09.38.015(a)(7)
	Property of business partnership	09.38.100(b)

pensions	Elected public officers (only benefits building up)	09.38.015(b)
	ERISA-qualified benefits deposited more than 120 days before filing bankruptcy	09.38.017
	Judicial employees (only benefits building up)	09.38.015(b)
	Public employees, (only benefits building up)	09.38.015(b); 39.35.505
	Roth & traditional IRAs, medical savings accounts	09.38.017(a)(3)
	Teachers (only benefits building up)	09.38.015(b)
	Other pensions, to extent wages exempt (only payments being received)	09.38.030(e)(5)
personal property	Books, musical instruments, clothing, family portraits, household goods, & heirlooms to \$3,600 total	09.38.020(a)
	Building materials	34.35.105
	Burial plot	09.38.015(a)(1)
	Cash or other liquid assets to \$1,680; for sole wage earner in household, \$2,640 (restrictions apply—see wages)	09.38.030(b)
	Deposit in apartment or condo owners' association	09.38.010(e)
	Health aids needed	09.38.015(a)(2)
	Jewelry to \$1,200	09.38.020(b)
	Motor vehicle to \$3,600; vehicle's market value can't exceed \$24,000	09.38.020(e)
	Personal injury recoveries, to extent wages exempt	09.38.030(e)(3)
	Pets to \$1,200	09.38.020(d)
	Proceeds for lost, damaged, or destroyed exempt property	09.38.060
	Tuition credits under an advance college tuition payment contract	09.38.015(a)(8)
public benefits	Wrongful death recoveries, to extent wages exempt	09.38.030(e)(3)
	Adult assistance to elderly, blind, disabled	47.25.550
	Alaska longevity bonus	09.38.015(a)(5)
	Crime victims' compensation	09.38.015(a)(4)
	Federally exempt public benefits paid or due	09.38.015(a)(6)
	General relief assistance	47.25.210
	20% of permanent fund dividends	43.23.065
	Unemployment compensation	09.38.015(b); 23.20.405
tools of trade	Workers' compensation	23.30.160
	Implements, books, & tools of trade to \$3,360	09.38.020(c)
wages	Weekly net earnings to \$420; for sole wage earner in a household, \$660; if you don't receive weekly or semi-monthly pay, can claim \$1,680 in cash or liquid assets paid any month; for sole wage earner in household, \$2,640	9.38.030(a),(b); 9.38.050(b)
wild card	None	

Arizona

Federal Bankruptcy Exemptions not available. All law references are to Arizona Revised Statutes unless otherwise noted.

Note: Doubling is permitted for noted exemptions by Arizona Revised Statutes § 33-1121.01.

ASSET	EXEMPTION	LAW
homestead	Real property, an apartment, or mobile home you occupy to \$100,000; sale proceeds exempt 18 months after sale or until new home purchased, whichever occurs first (husband & wife may not double)	33-1101(A)
	May record homestead declaration to clarify which one of multiple eligible parcels is being claimed as homestead	33-1102

insurance	Fraternal benefit society benefits	20-877
	Group life insurance policy or proceeds	20-1132
	Health, accident, or disability benefits	33-1126(A)(4)
	Life insurance cash value or proceeds to \$25,000 total	33-1126(A)(6); 20-1131(D)
	Life insurance proceeds to \$20,000 if beneficiary is spouse or child	33-1126(A)(1)
miscellaneous	Alimony, child support needed for support	33-1126(A)(3)
	Minor child's earnings, unless debt is for child	33-1126(A)(2)
pensions <i>see also wages</i>	Board of regents members	15-1628(I)
	District employees	48-227
	ERISA-qualified benefits deposited over 120 days before filing	33-1126(C)
	IRAs	<i>In re Herrscher</i> , 121 B.R. 29 (D. Ariz. 1990)
	Firefighters	9-968
	Police officers	9-931
	Public safety personnel	38-850(C)
	Rangers	41-955
	State employees retirement and disability	38-792; 38-797.11
personal property <i>husband & wife may double all personal property</i>	2 beds & bedding; 1 living room chair per person; 1 dresser, table, lamp; kitchen table; dining room table & 4 chairs (1 more per person); living room carpet or rug; couch; 3 lamps; 3 coffee or end tables; pictures, paintings, personal drawings, family portraits; refrigerator, stove, washer, dryer, vacuum cleaner; TV, radio, stereo, alarm clock to \$4,000 total	33-1123
	Bank deposit to \$150 in one account	33-1126(A)(8)
	Bible; bicycle; sewing machine; typewriter; burial plot; rifle, pistol, or shotgun to \$500 total	33-1125
	Books to \$250; clothing to \$500; wedding & engagement rings to \$1,000; watch to \$100; pets, horses, milk cows, & poultry to \$500; musical instruments to \$250	33-1125
	Food & fuel to last 6 months	33-1124
	Funeral deposits	32-1391.04
	Health aids	33-1125(9)
	Motor vehicle to \$5,000 (\$10,000, if disabled)	33-1125(8)
	Prepaid rent or security deposit to \$1,000 or 1-1/2 times your rent, whichever is less, in lieu of homestead	33-1126(D)
	Proceeds for sold or damaged exempt property	33-1126(A)(5),(7)
public benefits	Unemployment compensation	23-783(A)
	Welfare benefits	46-208
	Workers' compensation	23-1068(B)
tools of trade <i>husband & wife may double</i>	Arms, uniforms, & accoutrements of profession or office required by law	33-1130(3)
	Farm machinery, utensils, seed, instruments of husbandry, feed, grain, & animals to \$2,500 total	33-1130(2)
	Library & teaching aids of teacher	33-1127
	Tools, equipment, instruments, & books to \$2,500	33-1130(1)
wages	75% of earned but unpaid weekly net earnings or 30 times the federal minimum hourly wage; 50% of wages for support orders; bankruptcy judge may authorize more for low-income debtors	33-1131
wild card	None	

Arkansas

Federal Bankruptcy Exemptions available. All law references are to Arkansas Code Annotated unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead <i>choose option 1 or 2</i>	1. For married person or head of family: unlimited exemption on real or personal property used as residence to 1/4 acre in city, town, or village, or 80 acres elsewhere; if property is between 1/4-1 acre in city, town, or village, or 80-160 acres elsewhere, additional limit is \$2,500; homestead may not exceed 1 acre in city, town, or village, or 160 acres elsewhere (husband & wife may not double)	Constitution 9-3, 9-4, 9-5; 16-66-210; 16-66-218(b)(3), (4) <i>In re Stevens</i> , 829 F.2d 693 (8th Cir. 1987)
	2. Real or personal property used as residence to \$800 if single; \$1,250 if married	16-66-218(a)(1)

insurance	Annuity contract	23-79-134
	Disability benefits	23-79-133
	Fraternal benefit society benefits	23-74-403
	Group life insurance	23-79-132
	Life, health, accident, or disability cash value or proceeds paid or due to \$500, <i>In re Holt</i> , 97 B.R. 997 (W.D. Ark. 1988)	16-66-209; Constitution 9-1, 9-2
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	23-79-131
	Life insurance proceeds or avails if beneficiary isn't the insured	23-79-131
	Mutual assessment life or disability benefits to \$1,000	23-72-114
	Stipulated insurance premiums	23-71-112
miscellaneous	Property of business partnership (will be repealed in 2005)	4-42-502
pensions	Disabled firefighters	24-11-814
	Disabled police officers	24-11-417
	Firefighters	24-10-616
	IRA deposits to \$20,000 if deposited over 1 year before filing for bankruptcy	16-66-218(b)(16)
	Police officers	24-10-616
	School employees	24-7-715
	State police officers	24-6-205; 24-6-223
personal property	Burial plot to 5 acres, if choosing Federal homestead exemption (option 2)	16-66-207; 16-66-218(a)(1)
	Clothing	Constitution 9-1, 9-2
	Motor vehicle to \$1,200	16-66-218(a)(2)
	Wedding rings	16-66-219
public benefits	Crime victims' compensation	16-90-716(e)
	Unemployment compensation	11-10-109
	Workers' compensation	11-9-110
tools of trade	Implements, books, & tools of trade to \$750	16-66-218(a)(4)
wages	Earned but unpaid wages due for 60 days; in no event less than \$25 per week	16-66-208; 16-66-218(b)(6)
wild card	\$500 of any personal property if married or head of family; \$200 if not married	Constitution 9-1, 9-2; 16-66-218(b)(1),(2)

California—System 1

Federal Bankruptcy Exemptions not available. California has two systems; you must select one or the other. All law references are to California Code of Civil Procedure unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Real or personal property you occupy including mobile home, boat, stock cooperative, community apartment, planned development, or condo to \$50,000 if single & not disabled; \$75,000 for families if no other member has a homestead (if only one spouse files, may exempt one-half of amount if home held as community property and all of amount if home held as tenants in common); \$150,000 if 65 or older, or physically or mentally disabled; \$150,000 if 55 or older, single, & earn under \$15,000 or married & earn under \$20,000 & creditors seek to force the sale of your home; sale proceeds received exempt for 6 months after (husband & wife may not double) May file homestead declaration	704.710; 704.720; 704.730 <i>In re McFall</i> , 112 B.R. 336 (9th Cir. B.A.P. 1990)
insurance	Disability or health benefits	704.130
	Fidelity bonds	Labor 404
	Fraternal unemployment benefits	704.120
	Homeowners' insurance proceeds for 6 months after received, to homestead exemption amount	704.720(b)

	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	Ins. 10132; Ins. 10170; Ins. 10171
	Matured life insurance benefits needed for support	704.100(c)
	Unmatured life insurance policy loan value to \$9,700 (husband & wife may double)	704.100(b)
miscellaneous	Business or professional licenses	695.060
	Inmates' trust funds to \$1,225 (husband and wife may not double)	704.090
	Property of business partnership	Corp. 16501-04
pensions	County employees	Gov't 31452
	County firefighters	Gov't 32210
	County peace officers	Gov't 31913
	Private retirement benefits, including IRAs & Keoghs	704.115
	Public employees	Gov't 21255
	Public retirement benefits	704.110
personal property	Appliances, furnishings, clothing, & food	704.020
	Bank deposits from Social Security Administration to \$2,425 (\$3,650 for husband and wife)	704.080
	Building materials to repair or improve home to \$2,425 (husband and wife may not double)	704.030
	Burial plot	704.200
	Funds held in escrow	Fin. 17410
	Health aids	704.050
	Homeowners' Association Assessments	Civil 1366(c)
	Jewelry, heirlooms, & art to \$5,000 total (husband and wife may not double)	704.040
	Motor vehicles to \$2,300, or \$2,300 in auto insurance for loss or damages (husband and wife may not double)	704.010
	Personal injury & wrongful death causes of action	704.140(a); 704.150(a)
	Personal injury & wrongful death recoveries needed for support; if receiving installments, at least 75%	704.140(b),(c),(d); 704.150(b),(c)
public benefits	Aid to blind, aged, disabled; public assistance	704.170
	Financial aid to students	704.190
	Relocation benefits	704.180
	Unemployment benefits	704.120
	Union benefits due to labor dispute	704.120(b)(5)
	Workers' compensation	704.160
tools of trade	Tools, implements, materials, instruments, uniforms, books, furnishings, & equipment to \$6,075 total (\$12,150 total if used by both spouses in same occupation)	704.060
	Commercial vehicle (Vehicle Code § 260) to \$4,850 (\$9,700 total if used by both spouses in same occupation)	704.060
wages	Minimum 75% of wages paid within 30 days prior to filing	704.070
	Public employees' vacation credits; if receiving installments, at least 75%	704.113
wild card	None	

California—System 2

Federal Bankruptcy Exemptions not available. All law references are to California Code of Civil Procedure unless otherwise noted. Note: Married couples may not double any exemptions. (*In re Talmadge*, 832 F.2d 1120 (9th Cir. 1987); *In re Baldwin*, 70 B.R. 612 (9th Cir. B.A.P. 1987).)

ASSET	EXEMPTION	LAW
homestead	Real or personal property, including co-op, used as residence to \$17,425; unused portion of homestead may be applied to any property	703.140(b)(1)
insurance	Disability benefits	703.140(b)(10)(C)
	Life insurance proceeds needed for support of family	703.140(b)(11)(C)
	Unmatured life insurance contract accrued avails to \$9,300	703.140(b)(8)
	Unmatured life insurance policy other than credit	703.140(b)(7)
miscellaneous	Alimony, child support needed for support	703.140(b)(10)(D)

pensions	ERISA-qualified benefits needed for support	703.140(b)(10)(E)
personal property	Animals, crops, appliances, furnishings, household goods, books, musical instruments, & clothing to \$450 per item	703.140(b)(3)
	Burial plot to \$17,425, in lieu of homestead	703.140(b)(1)
	Health aids	703.140(b)(9)
	Jewelry to \$1,150	703.140(b)(4)
	Motor vehicle to \$2,725	703.140(b)(2)
	Personal injury recoveries to \$17,425 (not to include pain & suffering; pecuniary loss)	703.140(b)(11)(D),(E)
	Wrongful death recoveries needed for support	703.140(b)(11)(B)
public benefits	Crime victims' compensation	703.140(b)(11)(A)
	Public assistance	703.140(b)(10)(A)
	Social Security	703.140(b)(10)(A)
	Unemployment compensation	703.140(b)(10)(A)
	Veterans' benefits	703.140(b)(10)(B)
tools of trade	Implements, books, & tools of trade to \$1,750	703.140(b)(6)
wages	None (use federal nonbankruptcy wage exemption)	
wild card	\$925 of any property	703.140(b)(5)
	Unused portion of homestead or burial exemption of any property	703.140(b)(5)

Colorado

Federal Bankruptcy Exemptions not available. All law references are to Colorado Revised Statutes.

ASSET	EXEMPTION	LAW
homestead	Real property, mobile home, manufactured home, or house trailer you occupy to \$45,000; sale proceeds exempt 1 year after received (husband & wife may double)	38-41-201; 38-41-201.6; 38-41-203; 38-41-207; <i>In re Pastrana</i> , 216 B.R. 948 (Colo. 1998)
	Spouse or child of deceased owner may claim homestead exemption	38-41-204
insurance	Disability benefits to \$200 per month; if receive lump sum, entire amount exempt	10-16-212
	Fraternal benefit society benefits	10-14-403
	Group life insurance policy or proceeds	10-7-205
	Homeowners' insurance proceeds for 1 year after received, to homestead exemption amount	38-41-209
	Life insurance cash surrender value to \$50,000, except contributions to policy within past 48 months	13-54-102(1)(l)
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	10-7-106
miscellaneous	Child support	13-54-102.5
	Property of business partnership	7-60-125
pensions	ERISA-qualified benefits, including IRAs and Roth IRAs	13-54-102(1)(s)
<i>see also wages</i>	Firefighters & police officers	31-30.5-208; 31-31-203
	Public employees	24-51-212
	Teachers	22-64-120
	Veteran's pension for veteran, spouse, or dependents if veteran served in war or armed conflict	13-54-102(1)(h); 13-54-104
personal property	1 burial plot per family member	13-54-102(1)(d)
	Clothing to \$1,500	13-54-102(1)(a)
	Food & fuel to \$600	13-54-102(1)(f)
	Health aids	13-54-102(1)(p)
	Household goods to \$3,000	13-54-102(1)(e)
	Jewelry & articles of adornment to \$1,000	13-54-102(1)(b)
	Motor vehicles or bicycles used for work to \$3,000; to \$6,000 if used by a debtor or by a dependent who is disabled or 65 or over	13-54-102(i)(l), (ll)

	Personal injury recoveries	13-54-102(1)(n)
	Family pictures & books to \$1,500	13-54-102(1)(c)
	Proceeds for damaged exempt property	13-54-102(1)(m)
	Security deposits	13-54-102(1)(r)
public benefits	Aid to blind, aged, disabled; public assistance	26-2-131
	Crime victims' compensation	13-54-102(1)(q); 24-4.1-114
	Earned income tax credit	13-54-102(1)(o)
	Unemployment compensation	8-80-103
	Veteran's benefits for veteran, spouse, or child if veteran served in war or armed conflict	13-54-102(1)(h)
	Workers' compensation	8-42-124
tools of trade	Livestock or other animals, machinery, tools, equipment, & seed of person engaged in agriculture, to \$25,000 total	13-54-102(1)(g)
	Professional's library to \$3,000 (if not claimed under other tools of trade exemption)	13-54-102(1)(k)
	Stock in trade, supplies, fixtures, tools, machines, electronics, equipment, books, & other business materials, to \$10,000 total	13-54-102(1)(i)
	Military equipment personally owned by members of the National Guard	13-54-102(1)(h.5)
wages	Minimum 75% of weekly net earnings or 30 times the federal minimum wage, whichever is greater, including pension and insurance payments	13-54-104
wild card	None	

Connecticut

Federal Bankruptcy Exemptions available. All law references are to Connecticut General Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead	Real property, including mobile or manufactured home, to \$75,000 (husband & wife may double); applies only to claims arising after 1993	52-352a(e); 52-352b(l)
	Disability benefits paid by association for its members	52-352b(p)
insurance	Fraternal benefit society benefits	38a-637
	Health or disability benefits	52-352b(e)
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	38a-454
	Life insurance proceeds or avails	38a-453
	Unmatured life insurance policy loan value to \$4,000	52-352b(s)
miscellaneous	Alimony, to extent wages exempt	52-352b(n)
	Child support	52-352b(h)
	Farm partnership animals and livestock feed reasonably required to run farm where at least 50% of partners are members of same family	52-352d
pensions	ERISA-qualified benefits, including IRAs and Keoghs, to extent wages exempt	52-321a; 52-352b(m)
	Medical savings account	52-321a
	Municipal employees	7-446
	Probate judges & employees	45-29o
	State employees	5-171; 5-192w
	Teachers	10-183q
personal property	Appliances, food, clothing, furniture, bedding	52-352b(a)
	Burial plot	52-352b(c)
	Health aids needed	52-352b(f)
	Motor vehicle to \$1,500	52-352b(j)
	Proceeds for damaged exempt property	52-352b(q)
	Residential utility & security deposits for 1 residence	52-352b(l)
	Spendthrift trust funds required for support of debtor & family	51-321(d)
	Transfers to a nonprofit debt adjuster	52-352b(u)
	Wedding & engagement rings	52-352b(k)

public benefits	Crime victims' compensation	52-352b(o); 54-213
	Public assistance	52-352b(d)
	Social Security	52-352b(g)
	Unemployment compensation	31-272(c); 52-352b(g)
	Veterans' benefits	52-352b(g)
	Workers' compensation	52-352b(g)
	Arms, military equipment, uniforms, musical instruments of military personnel	52-352b(i)
tools of trade	Tools, books, instruments, & farm animals needed	52-352b(b)
wages	Minimum 75% of earned but unpaid weekly disposable earnings, or 40 times the state or federal hourly minimum wage, whichever is greater	52-361a(f)
wild card	\$1,000 of any property	52-352b(r)

Delaware

Federal Bankruptcy Exemptions not available. All law references are to Delaware Code Annotated unless otherwise noted.

Note: A single person may exempt no more than \$5,000 total in all exemptions; a husband & wife may exempt no more than \$10,000 total (10-4914).

ASSET	EXEMPTION	LAW
homestead	None; however, property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re Hovatter</i> , 25 B.R. 123 (D. Del. 1982)
insurance	Annuity contract proceeds to \$350 per month	18-2728
	Fraternal benefit society benefits	18-6218
	Group life insurance policy or proceeds	18-2727
	Health or disability benefits	18-2726
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	18-2729
	Life insurance proceeds or avails	18-2725
miscellaneous	Child support	13-54-102.5
pensions	IRAs	<i>In re Yuhas</i> , 104 F.3d 612 (3rd Cir. 1997)
	Kent County employees	9-4316
	Police officers	11-8803
	State employees	29-5503
	Volunteer firefighters	16-6653
		10-4902(a)
personal property	Bible, books, & family pictures	10-4902(a)
	Burial plot	10-4902(a)
	Church pew or any seat in public place of worship	10-4902(a)
	Clothing, includes jewelry	10-4902(a)
	College investment plan account (limit for year before filing is \$5,000 or average of past two years' contribution whichever is more)	10-4916
	Income from spendthrift trusts	12-3536
	Pianos and leased organs	10-4902(d)
	Sewing machines	10-4902(c)
public benefits	Aid to blind	31-2309
	Aid to aged, disabled, general assistance	31-513
	Crime victims' compensation	11-9011
	Unemployment compensation	19-3374
	Workers' compensation	19-2355
tools of trade	Tools, implements, & fixtures to \$75 in New Castle & Sussex Counties; to \$50 in Kent County	10-4902(b)
wages	85% of earned but unpaid wages	10-4913
wild card	\$500 of any personal property, except tools of trade, if head of family	10-4903

District of Columbia

Federal Bankruptcy Exemptions available. All law references are to District of Columbia Code unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Any property used as a residence or co-op that debtor or debtor's dependent uses as a residence	15-501(a)(14)
	(Property held as tenancy by the entirety may be exempt against debts owed by only one spouse)	<i>Estate of Wall</i> , 440 F.2d 215 (D.C. Cir. 1971)
insurance	Disability benefits	15-501(a)(7)
	Fraternal benefit society benefits	31-5315
	Group life insurance policy or proceeds	31-4717
	Life insurance payments	15-501(a)(11)
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	31-4719
	Life insurance proceeds or avails	31-4716
	Other insurance proceeds to \$200 per month, maximum 2 months, for head of family; else \$60 per month	15-503
	Unmatured life insurance contract other than credit life insurance	15-501(a)(5)
miscellaneous	Alimony or child support	15-501(a)(7)
pensions	ERISA-qualified benefits, IRAs, Keoghs, etc. to maximum deductible contribution	15-501(b)(9)
<i>see also wages</i>	Any stock bonus, annuity, pension, or profit-sharing plan	15-501(a)(7)
	Judges	11-1570(d)
	Public school teachers	38-2001.17; 38-2021.17
personal property	Appliances, books, clothing, household furnishings, and goods, musical instruments, pets to \$425 per item or \$8,625 total	15-501(a)(2)
	Cooperative association holdings to \$50	29-928
	Food for 3 months	15-501(a)(12)
	Health aids	15-501(a)(6)
	Higher education tuition savings account	47-4510
	Residential condominium deposit	42-1904.09
	All family pictures; and all the family library, to \$400	15-501(a)(8)
	Motor vehicle to \$2,575	15-501(a)(1)
	Payment including pain & suffering for loss of debtor or person depended on	15-501(a)(11)
	Uninsured motorist benefits	31-2408.01(h)
	Wrongful death damages	15-501(a)(11)
public benefits	Aid to blind, aged, disabled; general assistance	4-215.01
	Crime victims' compensation	15-501(a)(11)
	Social Security	15-501(a)(7)
	Unemployment compensation	51-118
	Veterans' benefits	15-501(a)(7)
	Workers' compensation	32-1517
tools of trade	Library, furniture, tools of professional, or artist to \$300	15-501(a)(13)
	Tools of trade or business to \$1,625	15-501(a)(5)
	Mechanic's tools to \$200	15-503(b)
	Seal & documents of notary public	1-1206
wages	Minimum 75% of earned but unpaid wages, pension payments; bankruptcy judge may authorize more for low-income debtors	16-572
	Nonwage (including pension & retirement) earnings to \$200/mo for head of family; else \$60/mo for a maximum of two months	15-503
	Payment for loss of future earnings	15-501(e)(11)
wild card	Up to \$850 in any property, plus up to \$8,075 of unused homestead exemption	15-501(a)(3)

Florida

Federal Bankruptcy Exemptions not available. All law references are to Florida Statutes Annotated unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Real or personal property including mobile or modular home to unlimited value; cannot exceed half acre in municipality or 160 acres elsewhere; spouse or child of deceased owner may claim homestead exemption (husband & wife may double)	222.01; 222.02; 222.03; 222.05; Constitution 10-4 <i>In re Colwell</i> , 196 F.3d (11th Cir. 1999)
	May file homestead declaration	222.01
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>Havoco of America, Ltd. v. Hill</i> , 197 F.3d 1135 (11th Cir., Fla., 1999)
insurance	Annuity contract proceeds; does not include lottery winnings	222.14; <i>In re Pizzi</i> , 153 B.R. 357 (S.D. Fla. 1993)
	Death benefits payable to a specific beneficiary, not the deceased's estate	222.13
	Disability or illness benefits	222.18
	Fraternal benefit society benefits	632.619
	Life insurance cash surrender value	222.14
miscellaneous	Alimony, child support needed for support	222.201
	Damages to employees for injuries in hazardous occupations	769.05
pensions <i>see also wages</i>	County officers, employees	122.15
	ERISA-qualified benefits	222.21(2)
	Firefighters	175.241
	Police officers	185.25
	State officers, employees	121.131
	Teachers	238.15
personal property	Any personal property to \$1,000 (husband & wife may double)	Constitution 10-4 <i>In re Hawkins</i> , 51 B.R. 348 (S.D. Fla. 1985)
	Federal income tax refund or credit	222.25
	Health aids	222.25
	Motor vehicle to \$1,000	222.25
	Pre-need funeral contract deposits	497.413(8)
	Prepaid college education trust deposits	222.22(1)
	Prepaid medical savings account deposits	222.22(2)
public benefits	Crime victims' compensation, unless seeking to discharge debt for treatment of injury incurred during the crime	960.14
	Public assistance	222.201
	Social Security	222.201
	Unemployment compensation	222.201; 443.051(2),(3)
	Veterans' benefits	222.201; 744.626
	Workers' compensation	440.22
tools of trade	None	
wages	100% of wages for heads of family up to \$500 per week either unpaid or paid and deposited into bank account for up to 6 months	222.11
	Federal government employees' pension payments needed for support & received 3 months prior	222.21
wild card	See personal property	

Georgia

Federal Bankruptcy Exemptions not available. All law references are to the Official Code of Georgia Annotated, not to the Georgia Code Annotated.

ASSET	EXEMPTION	LAW
homestead	Real or personal property, including co-op, used as residence to \$10,000 (husband & wife may double); up to \$5,000 of unused portion of homestead may be applied to any property	44-13-100(a)(1); 44-13-100(a)(6)
insurance	Annuity & endowment contract benefits	33-28-7
	Disability or health benefits to \$250 per month	33-29-15
	Fraternal benefit society benefits	33-15-62
	Group insurance	33-30-10
	Proceeds and avails of life insurance	33-26-5; 33-25-11
	Life insurance proceeds if policy owned by someone you depended on, needed for support	44-13-100(a)(1)(C)
	Unmatured life insurance contract	44-13-100(a)(8)
	Unmatured life insurance dividends, interest, loan value, or cash value to \$2,000 if beneficiary is you or someone you depend on	44-13-100(a)(9)
miscellaneous	Alimony, child support needed for support	44-13-100(a)(2)(D)
pensions	Employees of nonprofit corporations	44-13-100(a)(2.1)(B)
	ERISA-qualified benefits	18-4-22
	Public employees	44-13-100(a)(2.1)(A); 47-2-332
	Other pensions needed for support	18-4-22; 44-13-100(a)(2)(E); 44-13-100(a)(2.1)(C)
personal property	Animals, crops, clothing, appliances, books, furnishings, household goods, musical instruments to \$300 per item, \$5,000 total	44-13-100(a)(4)
	Burial plot, in lieu of homestead	44-13-100(a)(1)
	Health aids	44-13-100(a)(10)
	Jewelry to \$500	44-13-100(a)(5)
	Lost future earnings needed for support	44-13-100(a)(11)(E)
	Motor vehicles to \$3,500	44-13-100(a)(3)
	Personal injury recoveries to \$10,000	44-13-100(a)(11)(D)
	Wrongful death recoveries needed for support	44-13-100(a)(11)(B)
public benefits	Aid to blind	49-4-58
	Aid to disabled	49-4-84
	Crime victims' compensation	44-13-100(a)(11)(A)
	Local public assistance	44-13-100(a)(2)(A)
	Old age assistance	49-4-35
	Social Security	44-13-100(a)(2)(A)
	Unemployment compensation	44-13-100(a)(2)(A)
	Veterans' benefits	44-13-100(a)(2)(B)
	Workers' compensation	34-9-84
tools of trade	Implements, books, & tools of trade to \$1,500	44-13-100(a)(7)
wages	Minimum 75% of earned but unpaid weekly disposable earnings, or 40 times the state or federal hourly minimum wage, whichever is greater, for private & federal workers; bankruptcy judge may authorize more for low-income debtors	18-4-20; 18-4-21
wild card	\$600 of any property	44-13-100(a)(6)
	Unused portion of homestead exemption to \$5,000	44-13-100(a)(6)

Hawaii

Federal Bankruptcy Exemptions available. All law references are to Hawaii Revised Statutes unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Head of family or over 65 to \$30,000; all others to \$20,000; property cannot exceed 1 acre; sale proceeds exempt for 6 months after sale (husband & wife may not double)	651-91; 651-92; 651-96
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>Security Pacific Bank v. Chang</i> , 818 F.Supp. 1343 (D. Haw. 1993)
insurance	Annuity contract or endowment policy proceeds if beneficiary is insured's spouse, child, or parent	431:10-232(b)
	Accident, health, or sickness benefits	431:10-231
	Fraternal benefit society benefits	432:2-403
	Group life insurance policy or proceeds	431:10-233
	Life or health insurance policy for spouse or child	431:10-234
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	431:10D-112
miscellaneous	Property of business partnership	425-125
pensions	ERISA-qualified benefits deposited over 3 years before filing bankruptcy	651-124
	Firefighters	88-169
	Police officers	88-169
	Public officers & employees	88-91; 653-3
personal property	Appliances & furnishings	651-121(1)
	Books	651-121(1)
	Burial plot to 250 sq. ft. plus tombstones, monuments, & fencing	651-121(4)
	Clothing	651-121(1)
	Jewelry, watches, & articles of adornment to \$1,000	651-121(1)
	Motor vehicle to wholesale value of \$2,575	651-121(2)
	Proceeds for sold or damaged exempt property; sale proceeds exempt for 6 months after sale	651-121(5)
public benefits	Public assistance paid by Dept. of Health Services for work done in home or workshop	346-33
	Temporary disability benefits	392-29
	Unemployment compensation	383-163
	Unemployment work relief funds to \$60 per month	653-4
	Workers' compensation	386-57
tools of trade	Tools, implements, books, instruments, uniforms, furnishings, fishing boat, nets, motor vehicle, & other property needed for livelihood	651-121(3)
wages	Unpaid wages due for services of past 31 days	651-121(6)
	Prisoner's wages held by Dept. of Public Safety (except for restitution, child support, and other claims)	353-22.5
wild card	None	

Idaho

Federal Bankruptcy Exemptions not available. All law references are to Idaho Code.

ASSET	EXEMPTION	LAW
homestead	Real property or mobile home to \$50,000; sale proceeds exempt for 6 months (husband and wife may not double)	55-1003; 55-1113
	Must record homestead exemption for property that is not yet occupied	55-1004
insurance	Annuity contract proceeds to \$350 per month	41-1836
	Death or disability benefits	11-604(1)(a); 41-1834
	Fraternal benefit society benefits	41-3218
	Group life insurance benefits	41-1835

	Homeowners' insurance proceeds to amount of homestead exemption	55-1008
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	41-1930
	Life insurance proceeds or avails for beneficiary other than the insured	11-604(d); 41-1833
	Medical, surgical, or hospital care benefits	11-603(5)
	Unmatured life insurance contract, other than credit life insurance, owned by debtor	11-605(8)
	Unmatured life insurance contract interest or dividends to \$5,000 owned by debtor or person debtor depends on	11-605(9)
miscellaneous	Alimony, child support	11-604(1)(b)
	Liquor licenses	23-514
	Property of business partnership	53-325
pension <i>see also wages</i>	ERISA-qualified benefits	55-1011
	Firefighters	72-1422
	Government & private pensions, retirement plans, IRAs, Keoghs, etc.	11-604A
	Police officers	50-1517
	Public employees	59-1317
personal property	Appliances, furnishings, books, clothing, pets, musical instruments, 1 firearm, family portraits, & sentimental heirlooms to \$500 per item, \$5,000 total	11-605(1)
	Building materials	45-514
	Burial plot	11-603(1)
	College savings program account	11-604A(4)(b)
	Crops cultivated on maximum of 50 acres, to \$1,000; water rights to 160 inches	11-605(6)
	Health aids	11-603(2)
	Jewelry to \$1,000	11-605(2)
	Motor vehicle to \$3,000	11-605(3)
	Personal injury recoveries	11-604(1)(c)
	Proceeds for damaged exempt property for 3 months after proceeds received	11-606
	Wrongful death recoveries	11-604(1)(c)
public benefits	Aid to blind, aged, disabled	56-223
	Federal, state, & local public assistance	11-603(4)
	General assistance	56-223
	Social Security	11-603(3)
	Unemployment compensation	11-603(6)
	Veterans' benefits	11-603(3)
	Workers' compensation	72-802
tools of trade	Arms, uniforms, & accoutrements that peace officer, National Guard, or military personnel is required to keep	11-605(5)
	Implements, books, & tools of trade to \$1,500	11-605(3)
wages	Minimum 75% of earned but unpaid weekly disposable earnings, or 30 times the federal hourly minimum wage, whichever is greater; pension payments; bankruptcy judge may authorize more for low-income debtors	11-207
wild card	\$800 in any tangible personal property	11-605(10)

Illinois

Federal Bankruptcy Exemptions not available. All law references are to Illinois Annotated Statutes.

ASSET	EXEMPTION	LAW
homestead	Real or personal property including a farm, lot, & buildings, condo, co-op, or mobile home to \$7,500 (husband and wife may double); sale proceeds exempt for 1 year	735-5/12-901; 735-5/12-906

	Firefighters	40-5/4-135; 40-5/6-213
	General assembly members	40-5/2-154
	House of correction employees	40-5/19-117
	Judges	40-5/18-161
	Municipal employees	40-5/7-217(a); 40-5/8-244
	Park employees	40-5/12-190
	Police officers	40-5/3-144.1; 40-5/5-218
	Public employees	735-5/12-1006
	Public library employees	40-5/19-218
	Sanitation district employees	40-5/13-805
	State employees	40-5/14-147
	State university employees	40-5/15-185
	Teachers	40-5/16-190; 40-5/17-151
personal property	Bible, family pictures, schoolbooks, & clothing	735-5/12-1001(a)
	Health aids	735-5/12-1001(e)
	Motor vehicle to \$1,200	735-5/12-1001(c)
	Personal injury recoveries to \$7,500	735-5/12-1001(h)(4)
	Prepaid tuition trust fund	110-979/45(g)
	Proceeds of sold exempt property	735-5/12-1001
	Wrongful death recoveries	735-5/12-1001(h)(2)
public benefits	Aid to aged, blind, disabled; public assistance	305-5/11-3
	Crime victims' compensation	735-5/12-1001(h)(1)
	Restitution payments on account of WWII relocation of Aleuts and Japanese Americans	735-5/12-1001(12)(h)(5)
	Social Security	735-5/12-1001(g)(1)
	Unemployment compensation	735-5/12-1001(g)(1),(3)
	Veterans' benefits	735-5/12-1001(g)(2)
tools of trade	Implements, books, & tools of trade to \$750	735-5/12-1001(d)
wages	Minimum 85% of earned but unpaid weekly wages or 45 times the federal minimum hourly wage; bankruptcy judge may authorize more for low-income debtors	740-170/4
wild card	\$2,000 of any personal property (does not include wages)	735-5/12-1001(b)

Indiana

Federal Bankruptcy Exemptions not available. All law references are to Indiana Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead <i>see also</i> <i>wild card</i>	Real or personal property used as residence to \$7,500 (husband and wife may double); homestead plus personal property—except health aids—can't exceed \$10,000	34-55-10-2(b)(1); 34-55-10-2(c)
	Property held as tenancy by the entirety may be exempt against debts incurred by only one spouse	34-55-10-2(b)(5)
insurance	Employer's life insurance policy on employee	27-1-12-17.1
	Workers' compensation	820-305/21
	Workers' occupational disease compensation	820-310/21
	Fraternal benefit society benefits	27-11-6-3
	Group life insurance policy	27-1-12-29
	Life insurance policy, proceeds, cash value, or avails if beneficiary is insured's spouse or dependent	27-1-12-14

	Life insurance proceeds if clause prohibits proceeds to be used to pay beneficiary's creditors	27-2-5-1
	Mutual life or accident proceeds	27-8-3-23
miscellaneous	Property of business partnership	23-4-1-25
pensions	Firefighters	36-8-7-22, 36-8-8-17
	Police officers	36-8-8-17
	Public employees	5-10.3-8-9
	Public or private retirement benefits	34-55-10-2(b)(6)
	Sheriffs	36-8-10-19
	State teachers	21-6.1-5-17
personal property <i>see also wild card</i>	Health aids	34-55-10-2(b)(4)
	Money in medical care savings account	34-55-10-2(b)(7)
	Spendthrift trusts	30-4-3-2
	\$100 of any intangible personal property, except money owed to you	34-55-10-2(b)(3)
public benefits	Crime victims' compensation, unless seeking to discharge the debts for which the victim was compensated	5-2-6.1-38
	Unemployment compensation	22-4-33-3
	Workers' compensation	22-3-2-17
tools of trade	National Guard uniforms, arms, & equipment	10-16-10-3
wages	Minimum 75% of earned but unpaid weekly disposable earnings, or 30 times the federal hourly minimum wage; bankruptcy judge may authorize more for low-income debtors	24-4.5-5-105
wild card	\$4,000 of any real estate or tangible personal property, but wild card plus homestead cannot exceed \$10,000	34-55-10-2(b)(2)

Iowa

Federal Bankruptcy Exemptions not available. All law references are to Iowa Code Annotated.

ASSET	EXEMPTION	LAW
homestead	Real property or an apartment to an unlimited value; property cannot exceed 1/2 acre in town or city, 40 acres elsewhere (husband & wife may not double)	499A.18; 561.2; 561.16
	May record homestead declaration	561.4
insurance	Accident, disability, health, illness, or life proceeds or avails	627.6(6)
	Disability or illness benefit	627.6(8)(c)
	Employee group insurance policy or proceeds	509.12
	Life insurance proceeds paid to spouse, child, or other dependent (limited to \$10,000 if acquired within 2 years of filing for bankruptcy)	627.6(6)
	Upon death of insured, up to \$15,000 total proceeds from all matured life, accident, health, or disability policies exempt from beneficiary's debts contracted before insured's death	627.6(6)
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	508.32
miscellaneous	Alimony, child support needed for support	627.6(8)(d)
	Liquor licenses	123.38
pensions <i>see also wages</i>	Disabled firefighters, police officers (only payments being received)	410.11
	Federal government pension	627.8
	Firefighters	411.13
	Peace officers	97A.12
	Police officers	411.13
	Public employees	97B.39
	Other pensions, annuities, and contracts fully exempt; however, contributions made within 1 year prior to filing for bankruptcy not exempt to the extent they exceed normal and customary amounts	627.6(8)(e)
	Retirement plans, Keoghs, IRAs, Roth IRAs, ERISA-qualified benefits	627.6(8)(f)

personal property	Appliances, furnishings, & household goods to \$2,000 total	627.6(5)
	Bibles, books, portraits, pictures, & paintings to \$1,000 total	627.6(3)
	Burial plot to 1 acre	627.6(4)
	Clothing and its storage containers to \$1,000	627.6(1)
	Health aids	627.6(7)
	Motor vehicle, musical instruments, & tax refund, & accrued wages to \$5,000 total; no more than \$1,000 from tax refunds and accrued wages	627.6(9)
	Residential security or utility deposit, or advance rent, to \$500	627.6(14)
	Rifle or musket; shotgun	627.6(2)
	Wedding or engagement rings	627.6(1)
public benefits	Adopted child assistance	627.19
	Any public assistance benefit	627.6(8)(a)
	Social Security	627.6(8)(a)
	Unemployment compensation	627.6(8)(a)
	Veterans' benefits	627.6(8)(b)
	Workers' compensation	627.13
tools of trade	Farming equipment; includes livestock, feed to \$10,000	627.6(11)
	Nonfarming equipment to \$10,000	627.6(10)
wages	Expected annual earnings	Amount NOT exempt per year
	\$0 to \$12,000	\$250
	\$12,000 to \$16,000	\$400
	\$16,000 to \$24,000	\$800
	\$24,000 to \$35,000	\$1,000
	\$35,000 to \$50,000	\$2,000
	More than \$50,000	10%
	Not exempt from spousal or child support	
wild card	\$100 of any personal property, including cash	627.6(13)

Kansas

Federal Bankruptcy Exemptions not available. All law references are to Kansas Statutes Annotated unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Real property or mobile home you occupy or intend to occupy to unlimited value; property cannot exceed 1 acre in town or city, 160 acres on farm	60-2301; Constitution 15-9
insurance	Disability and illness benefits	60-2313(a)(1)
	Fraternal life insurance benefits	60-2313(a)(8)
	Cash value of life insurance; not exempt if obtained within 1 year prior to bankruptcy with fraudulent intent.	60-2313(a)(7); 40-414(b)
	Life insurance proceeds	40-414(a)
miscellaneous	Alimony, maintenance, and support	60-2312(b)
	Liquor licenses	41-326
pensions	Elected & appointed officials in cities with populations between 120,000 & 200,000	13-14a10
	ERISA-qualified benefits	60-2308(b)
	Federal government pension needed for support & paid within 3 months of filing for bankruptcy (only payments being received)	60-2308(a)
	Firefighters	12-5005(e); 14-10a10
	Judges	20-2618
	Police officers	12-5005(e); 13-14a10
	Public employees	74-4923; 74-49,105
	State highway patrol officers	74-4978g
	State school employees	72-5526
	Payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for support	60-2312(b)

personal property	Burial plot or crypt	60-2304(d)
	Clothing to last 1 year	60-2304(a)
	Food & fuel to last 1 year	60-2304(a)
	Funeral plan prepayments	16-310(d)
	Furnishings & household equipment	60-2304(a)
	Jewelry & articles of adornment to \$1,000	60-2304(b)
	Motor vehicle to \$20,000; if designed or equipped for disabled person, no limit	60-2304(c)
public benefits	Crime victims' compensation	74-7313(d)
	General assistance	39-717(c)
	Social Security	60-2312(b)
	Unemployment compensation	44-718(c)
	Veterans' benefits	60-2312(b)
	Workers' compensation	44-514
tools of trade	Books, documents, furniture, instruments, equipment, breeding stock, seed, grain, & stock to \$7,500 total	60-2304(e)
	National Guard uniforms, arms, & equipment	48-245
wages	Minimum 75% of disposable weekly wages or 30 times the federal minimum hourly wage per week, whichever is greater; bankruptcy judge may authorize more for low-income debtors	60-2310
wild card	None	

Kentucky

Federal Bankruptcy Exemptions not available. All law references are to Kentucky Revised Statutes.

ASSET	EXEMPTION	LAW
homestead	Real or personal property used as residence to \$5,000; sale proceeds exempt	427.060; 427.090
insurance	Annuity contract proceeds to \$350 per month	304.14-330
	Cooperative life or casualty insurance benefits	427.110(1)
	Fraternal benefit society benefits	427.110(2)
	Group life insurance proceeds	304.14-320
	Health or disability benefits	304.14-310
	Life insurance policy if beneficiary is a married woman	304.14-340
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	304.14-350
	Life insurance proceeds or cash value if beneficiary is someone other than insured	304.14-300
miscellaneous	Alimony, child support needed for support	427.150(1)
	Property of business partnership	362.270
pensions	Firefighters	67A.620; 95.878
	Police officers	427.120; 427.125
	ERISA-qualified benefits, including IRAs, SEPs, and Keoghs deposited more than 120 days before filing	427.150
	State employees	61.690
	Teachers	161.700
	Urban county government employees	67A.350
personal property	Burial plot to \$5,000, in lieu of homestead	427.060
	Clothing, jewelry, articles of adornment, & furnishings to \$3,000 total	427.010(1)
	Health aids	427.010(1)
	Lost earnings payments needed for support	427.150(2)(d)
	Medical expenses paid & reparation benefits received under motor vehicle reparation law	304.39-260
	Motor vehicle to \$2,500	427.010(1)
	Personal injury recoveries to \$7,500 (not to include pain & suffering or pecuniary loss)	427.150(2)(c)
	Prepaid tuition payment fund account	164A.707(3)
	Wrongful death recoveries for person you depended on, needed for support	427.150(2)(b)

public benefits	Aid to blind, aged, disabled; public assistance	205.220(c)
	Crime victims' compensation	427.150(2)(a)
	Unemployment compensation	341.470(4)
	Workers' compensation	342.180
tools of trade	Library, office equipment, instruments, & furnishings of minister, attorney, physician, surgeon, chiropractor, veterinarian, or dentist to \$1,000	427.040
	Motor vehicle of auto mechanic, mechanical, or electrical equipment servicer, minister, attorney, physician, surgeon, chiropractor, veterinarian, or dentist to \$2,500	427.030
	Tools, equipment, livestock, & poultry of farmer to \$3,000	427.010(1)
	Tools of nonfarmer to \$300	427.030
wages	Minimum 75% of disposable weekly earnings or 30 times the federal minimum hourly wage per week, whichever is greater; bankruptcy judge may authorize more for low-income debtors	427.010(2),(3)
wild card	\$1,000 of any property	427.160

Louisiana

Federal Bankruptcy Exemptions not available. All law references are to Louisiana Revised Statutes Annotated unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Property you occupy to \$25,000 (if debt is result of catastrophic or terminal illness or injury, limit is full value of property as of 1 year before filing); cannot exceed 5 acres in city or town, 200 acres elsewhere (husband & wife may not double)	20:1(A)(1),(2),(3)
	Spouse or child of deceased owner may claim homestead exemption; spouse given home in divorce gets homestead	20:1(B)
insurance	Annuity contract proceeds and avails	22:647
	Fraternal benefit society benefits	22:558
	Group insurance policies or proceeds	22:649
	Health, accident, or disability proceeds or avails	22:646
	Life insurance proceeds or avails; if policy issued within 9 months of filing, exempt only to \$35,000	22:647
miscellaneous	Property of minor child	13:3881(A)(3); Civil Code Art. 223
pensions	Assessors	11:1403
	Court clerks	11:1526
	District attorneys	11:1583
	ERISA-qualified benefits, including IRAs and Keoghs, if contributions made over 1 year before filing for bankruptcy	13:3881(D)(1); 20:33(1)
	Firefighters	11:2263
	Gift or bonus payments from employer to employee or heirs whenever paid	20:33(2)
	Judges	11:1378
	Louisiana University employees	11:952.3
	Municipal employees	11:1735
	Parochial employees	11:1905
	Police officers	11:3513
	School employees	11:1003
	Sheriffs	11:2182
	State employees	11:405
	Teachers	11:704
	Voting registrars	11:2033

personal property	Arms, military accoutrements; bedding; dishes, glassware, utensils, silverware (nonsterling); clothing, family portraits, musical instruments; bedroom, living room, & dining room furniture; poultry, 1 cow, household pets; heating & cooling equipment, refrigerator, freezer, stove, washer & dryer, iron, sewing machine	13:3881(A)(4)
	Cemetery plot, monuments	8:313
	Engagement & wedding rings to \$5,000	13:3881(A)(5)
	Spendthrift trusts	9:2004
public benefits	Aid to blind, aged, disabled; public assistance	46:111
	Crime victims' compensation	46:1811
	Unemployment compensation	23:1693
	Workers' compensation	23:1205
tools of trade	Tools, instruments, books, \$7,500 of equity in a motor vehicle, one firearm to \$500, needed to work	13:3881(A)(2)
wages	Minimum 75% of disposable weekly earnings or 30 times the federal minimum hourly wage per week, whichever is greater; bankruptcy judge may authorize more for low-income debtors	13:3881(A)(1)
wild card	None	

Maine

Federal Bankruptcy Exemptions not available. All law references are to Maine Revised Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead	Real or personal property (including cooperative) used as residence to \$35,000; if debtor has minor dependents in residence, to \$70,000; if debtor over age 60 or physically or mentally disabled, \$70,000 (joint debtors in this category may double); proceeds of sale exempt for six months	14-4422(1)
insurance	Annuity proceeds to \$450 per month	24-A-2431
	Disability or health proceeds, benefits, or avails	14-4422(13)(A),(C); 24-A-2429
	Fraternal benefit society benefits	24-A-4118
	Group health or life policy or proceeds	24-A-2430
	Life, endowment, annuity, or accident policy, proceeds or avails	14-4422(14)(C); 24-A-2428
	Life insurance policy, interest, loan value, or accrued dividends for policy from person you depended on, to \$4,000	14-4422(11)
	Unmatured life insurance policy, except credit insurance policy	14-4422(10)
miscellaneous	Alimony & child support needed for support	14-4422(13)(D)
	Property of business partnership	31-305
pensions	ERISA-qualified benefits	14-4422(13)(E)
	Judges	4-1203
	Legislators	3-703
	State employees	5-17054
personal property	Animals, crops, musical instruments, books, clothing, furnishings, household goods, appliances to \$200 per item	14-4422(3)
	Balance due on repossessed goods; total amount financed can't exceed \$2,000	9-A-5-103
	Burial plot in lieu of homestead exemption	14-4422(1)
	Cooking stove; furnaces & stoves for heat	14-4422(6)(A),(B)
	Food to last 6 months	14-4422(7)(A)
	Fuel not to exceed 10 cords of wood, 5 tons of coal, or 1,000 gal. of heating oil	14-4422(6)(C)
	Health aids	14-4422(12)
	Jewelry to \$750; no limit for one wedding & one engagement ring	14-4422(4)
	Lost earnings payments needed for support	14-4422(14)(E)

	Military clothes, arms, & equipment	37-B-262
	Motor vehicle to \$5,000	14-4422(2)
	Personal injury recoveries to \$12,500	14-4422(14)(D)
	Seeds, fertilizers, & feed to raise & harvest food for 1 season	14-4422(7)(B)
	Tools & equipment to raise & harvest food	14-4422(7)(C)
	Wrongful death recoveries needed for support	14-4422(14)(B)
public benefits	Crime victims' compensation	14-4422(14)(A)
	Public assistance	22-3766
	Social Security	14-4422(13)(A)
	Unemployment compensation	14-4422(13)(A),(C)
	Veterans' benefits	14-4422(13)(B)
	Workers' compensation	39-A-106
tools of trade	Commercial fishing boat, 5-ton limit	14-4422(9)
	Books, materials, & stock to \$5,000	14-4422(5)
	One of each farm implement (and its maintenance equipment needed to harvest and raise crops)	14-4422(8)
wages	None (use federal nonbankruptcy wage exemption)	
wild card	Unused portion of exemption in homestead to \$6,000; or unused exemption in animals, crops, musical instruments, books, clothing, furnishings, household goods, appliances, tools of the trade, & personal injury recoveries	14-4422(15)
	\$400 of any property	14-4422(15)

Maryland

Federal Bankruptcy Exemptions not available. All law references are to Maryland Code of Courts & Judicial Proceedings unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	None; however, property held as tenancy by the entirety is exempt against debts owed by only one spouse	<i>In re Birney</i> , 200 F.3d 225 (4th Cir. 1999)
insurance	Disability or health benefits, including court awards, arbitrations, & settlements	11-504(b)(2)
	Fraternal benefit society benefits	Ins. 8-431; Estates & Trusts 8-115
	Life insurance or annuity contract proceeds or avails if beneficiary is insured's dependent, child, or spouse	Ins. 16-111(a); Estates & Trusts 8-115
	Medical insurance benefits deducted from wages plus medical insurance payments to \$145 per week or 75% of disposable wages	Commercial Law 15-601.1(3)
pensions	ERISA-qualified benefits, except IRAs	11-504(h)(1)
	State employees	State Pers. & Pen. 21-502
personal property	Appliances, furnishings, household goods, books, pets, & clothing to \$500 total	11-504(b)(4)
	Burial plot	Code of 1957 23-164
	Health aids	11-504(b)(3)
	Lost future earnings recoveries	11-504(b)(2)
public benefits	Crime victims' compensation	Crim. Proc. 11-816(b)
	General assistance	Code of 1957 88A-73
	Unemployment compensation	Labor & Employment 8-106
	Workers' compensation	Labor & Employment 9-732
tools of trade	Clothing, books, tools, instruments, & appliances to \$2,500	11-504(b)(1)

wages	Earned but unpaid wages, the greater of 75% or \$145 per week; in Kent, Caroline, & Queen Anne's of Worcester Counties, the greater of 75% or 30 times federal minimum hourly wage	Commercial Law 15-601.1
wild card	\$5,500 of any property (may include up to \$3,000 in cash); must claim exemption within 30 days of levy or attachment	11-504(b)(5),(f)

Massachusetts

Federal Bankruptcy Exemptions available. All law references are to Massachusetts General Laws Annotated.

ASSET	EXEMPTION	LAW
homestead	Property you occupy or intend to occupy (including mobile home) to \$300,000; if over 65 or disabled, separately protected, also up to \$300,000	188-1; 188-1A
	If statement of homestead is not in title to property, must record homestead declaration before filing bankruptcy	188-2
	Spouse or children of deceased owner may claim homestead exemption	188-4
	Property held as tenancy by the entirety may be exempt against debt for non-necessity owed by only one spouse.	209-1
insurance	Disability benefits to \$400 per week	175-110A
	Fraternal benefit society benefits	176-22
	Group annuity policy or proceeds	175-132C
	Group life insurance policy	175-135
	Life or endowment policy, proceeds, or cash value	175-125
	Life insurance policy if beneficiary is married woman	175-126
	Life insurance or annuity contract proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	175-119A
	Medical malpractice self-insurance	175F-15
miscellaneous	Property of business partnership	108A-25
pensions <i>see also wages</i>	Credit union employees	171-84
	ERISA-qualified benefits, including IRAs	235-34A; 246-28
	Private retirement benefits	32-41
	Public employees	32-19
	Savings bank employees	168-41; 168-44
personal property	Bank deposits to \$125	235-34
	Beds & bedding; heating unit; clothing	235-34
	Bibles & books to \$200 total; sewing machine to \$200	235-34
	Burial plots, tombs, & church pew	235-34
	Cash for fuel, heat, water, or light to \$75 per month	235-34
	Cash to \$200/month for rent, in lieu of homestead	235-34
	Cooperative association shares to \$100	235-34
	2 cows, 12 sheep, 2 swine, 4 tons of hay	235-34
	Food or cash for food to \$300	235-34
	Furniture to \$3,000; motor vehicle to \$700	235-34
	Moving expenses for eminent domain	79-6A
	Trust company, bank, or credit union deposits to \$500	246-28A
public benefits	Public assistance	235-34
	Aid to families with dependent children	118-10
	Unemployment compensation	151A-36
	Veterans' benefits	115-5
	Workers' compensation	152-47
tools of trade	Arms, accoutrements, & uniforms required	235-34

	Fishing boats, tackle, & nets to \$500	235-34
	Materials you designed & procured to \$500	235-34
	Tools, implements, & fixtures to \$500 total	235-34
wages	Earned but unpaid wages to \$125 per week	246-28
wild card	None	

Michigan

Federal Bankruptcy Exemptions available. All law references are to Michigan Compiled Laws Annotated unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Real property including condo to \$3,500; property cannot exceed 1 lot in town, village, city, or 40 acres elsewhere; spouse or children of deceased owner may claim homestead exemption	559.214; 600.6023(1)(h),(i); 600.6023(3)
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re Smith</i> , 246 B.R. 540 (E.D. Mich., 2000)
insurance	Disability, mutual life, or health benefits	600.6023(1)(f)
	Fraternal benefit society benefits	500.8181
	Life, endowment, or annuity proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	500.4054
miscellaneous	Property of business partnership	449.25
pensions	Firefighters, police officers	38.559(6); 38.1683
	ERISA-qualified benefits, except contributions within last 120 days	600.6023(1)(l)
	IRAs, except contributions within last 120 days	600.6023(1)(k)
	Judges	38.2308; 38.1683
	Legislators	38.1057; 38.1683
	Probate judges	38.2308; 38.1683
	Public school employees	38.1346; 38.1683
	State employees	38.40; 38.1683
personal property	Appliances, utensils, books, furniture, & household goods to \$1,000 total	600.6023(1)(b)
	Building & loan association shares to \$1,000 par value, in lieu of homestead	600.6023(1)(g)
	Burial plots, cemeteries; church pew, slip, seat for entire family	600.6023(1)(c)
	Clothing; family pictures	600.6023(1)(a)
	2 cows, 100 hens, 5 roosters, 10 sheep, 5 swine, & feed to last 6 months	600.6023(1)(d)
	Food & fuel to last family for 6 months	600.6023(1)(a)
public benefits	Crime victims' compensation	18.362
	Social welfare benefits	400.63
	Unemployment compensation	421.30
	Veterans' benefits for Korean War veterans	35.977
	Veterans' benefits for Vietnam veterans	35.1027
	Veterans' benefits for WWII veterans	35.926
	Workers' compensation	418.821
tools of trade	Arms & accoutrements required	600.6023(1)(a)
	Tools, implements, materials, stock, apparatus, team, motor vehicle, horse, & harness to \$1,000 total	600.6023(1)(e)
wages	Head of household may keep 60% of earned but unpaid wages (no less than \$15/week), plus \$2/week per nonspouse dependent; if not head of household may keep 40% (no less than \$10/week)	600.5311
wild card	None	

Minnesota

Federal Bankruptcy Exemptions available. All law references are to Minnesota Statutes Annotated.

NOTE: Section 550.37(4)(a) requires certain exemptions to be adjusted for inflation on July 1 of even-numbered years; this table includes all changes made through July 1, 2000. Exemptions are published in the May 1 issue of the Minnesota State Register, www.comm.media.state.mn.us/bookstore/stateregister.asp, or call the Minnesota Dept. of Commerce at 651-296-7977.

ASSET	EXEMPTION	LAW
homestead	Home and land on which it is situated to \$200,000; if homestead is used for agricultural purposes, \$500,000; cannot exceed 1/2 acre in city, 160 acres elsewhere (husband & wife may not double);	510.01; 510.02
	Manufactured home to an unlimited value	550.37 subd. 12
insurance	Accident or disability proceeds	550.39
	Fraternal benefit society benefits	64B.18
	Life insurance proceeds to \$36,000, if beneficiary is spouse or child of insured, plus \$9,000 per dependent	550.37 subd. 10
	Police, fire, or beneficiary association benefits	550.37 subd. 11
	Unmatured life insurance contract dividends, interest, or loan value to \$7,200 if insured is debtor or person debtor depends on	550.37 subd. 23
miscellaneous	Earnings of minor child	550.37 subd. 15
pensions	ERISA-qualified benefits or needed for support, up to \$54,000 in present value	550.37 subd. 24
	IRAs needed for support, up to \$54,000 in present value	550.37 subd. 24
	Public employees	353.15
	State employees	352.96 subd. 6
	State troopers	352B.071
personal property	Appliances, furniture, jewelry, radio, phonographs, & TV to \$8,100 total	550.37 subd. 4(b)
	Bible and books	550.37 subd. 2
	Burial plot; church pew or seat	550.37 subd. 3
	Clothing, one watch, food, & utensils for family	550.37 subd. 4(a)
	Motor vehicle to \$3,600 (up to \$36,000 if vehicle has been modified for disability)	550.37 subd. 12(a)
	Personal injury recoveries	550.37 subd. 22
	Proceeds for damaged exempt property	550.37 subds. 9, 16
	Wrongful death recoveries	550.37 subd. 22
public benefits	Crime victims' compensation	611A.60
	Public benefits	550.37 subd. 14
	Unemployment compensation	268.192 subd. 2
	Veterans' benefits	550.38
	Workers' compensation	176.175
tools of trade <i>total (except teaching materials) can't exceed \$13,000</i>	Farm machines, implements, livestock, produce, & crops	550.37 subd. 5
	Teaching materials of college, university, public school, or public institution teacher	550.37 subd. 8
	Tools, machines, instruments, stock in trade, furniture, & library to \$9,000 total	550.37 subd. 6
wages	Wages, paid within 6 mos. of returning to work, after receiving welfare or after incarceration; includes earnings deposited in a financial institution in the last 60 days	550.37 subd. 14
	Minimum 75% of weekly disposable earnings or 40 times federal minimum hourly wage, whichever is greater	571.922
	Wages deposited into bank accounts for 20 days after depositing	550.37 subd. 13
wild card	None	

NOTE: Some courts have held "unlimited" exemptions unconstitutional under the Minnesota Constitution, which allows debtors to exempt only a "reasonable amount" of property. See *In re Tveten*, 402 N.W. 2d 551 (Minn. 1987), and *In re Medill*, 119 B.R. 685 (D. Minn. 1990).

Mississippi

Federal Bankruptcy Exemptions not available. All law references are to Mississippi Code.

ASSET	EXEMPTION	LAW
homestead	Property you own & occupy to \$75,000; if over 60 and married or widowed may claim a former residence; property cannot exceed 160 acres; sale proceeds exempt	85-3-1(b)(i); 85-3-21; 85-3-23
	Mobile home does not qualify as homestead unless you own land on which it is located	<i>In re Cobbins</i> , 234 B.R. 882 (S.D. Miss. 1999)
	May file homestead declaration	85-3-27; 85-3-31
insurance	Disability benefits	85-3-1(b)(ii)
	Fraternal benefit society benefits	83-29-39
	Homeowners' insurance proceeds to \$75,000	85-3-23
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	83-7-5
miscellaneous	Property of business partnership	79-12-49
pensions	ERISA-qualified benefits, IRAs, Keoghs deposited over 1 yr. before filing bankruptcy	85-3-1(b)(iii), (f)
	Firefighters (includes death benefits)	21-29-257; 45-2-1
	Highway patrol officers	25-13-31
	Law enforcement officers' death benefits	45-2-1
	Private retirement benefits to extent tax-deferred	71-1-43
	Police officers (includes death benefits)	21-29-257; 45-2-1
	Public employees retirement & disability benefits	25-11-129
	State employees	25-14-5
	Teachers	25-11-201(1)(d)
personal property	Volunteer firefighters' death benefits	45-2-1
	Tangible personal property to \$10,000: any item worth less than \$200; furniture, dishes, kitchenware, household goods, appliances, 1 radio & 1 TV, 1 firearm, 1 lawnmower, clothing, wedding rings, motor vehicles, tools of the trade, books, crops, health aids, domestic animals (does not include works of art, antiques, jewelry, or electronic entertainment equipment)	85-3-1(a)
	Personal injury judgments to \$10,000	85-3-17
public benefits	Sale or insurance proceeds for exempt property	85-3-1(b)(i)
	Assistance to aged	43-9-19
	Assistance to blind	43-3-71
	Assistance to disabled	43-29-15
	Crime victims' compensation	99-41-23
	Social Security	25-11-129
	Unemployment compensation	71-5-539
	Workers' compensation	71-3-43
tools of trade	See personal property	
wages	Earned but unpaid wages owed for 30 days; after 30 days, minimum 75% of earned but unpaid weekly disposable earnings, or 30 times the federal hourly minimum wage, whichever is greater (bankruptcy judge may authorize more for low-income debtors)	85-3-4
wild card	See personal property	

Missouri

Federal Bankruptcy Exemptions not available. All law references are to Annotated Missouri Statutes unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Real property to \$8,000 or mobile home to \$1,000 (joint owners may not double)	513.430(6); 513.475 <i>In re Smith</i> , 254 B.R. 751 (W.D. Mo. 2000)
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re Eads</i> , 271 B.R. 371 (Bkrtcy. W.D. Mo. 2002).
insurance	Assessment plan or life insurance proceeds	377.090
	Disability or illness benefits	513.430(10)(c)
	Fraternal benefit society benefits to \$5,000, bought over 6 months before filing	513.430(8)
	Life insurance dividends, loan value, or interest to \$5,000, bought over 6 months before filing	513.430(8)
	Life insurance proceeds if policy owned by a woman & insures her husband	376.530
	Life insurance proceeds if policy owned by unmarried woman & insures her father or brother	376.550
	Stipulated insurance premiums	377.330
	Unmatured life insurance policy	513.430(7)
miscellaneous	Alimony, child support to \$500 per month	513.430(10)(d)
	Property of business partnership	358.250
pensions	Employees of cities with 100,000 or more people	71.207
	ERISA-qualified benefits needed for support (only payments being received)	513.430(10)(e)
	Firefighters	87.090; 87.365; 87.485
	Highway & transportation employees	104.250
	Police department employees	86.190; 86.353; 86.493; 86.780
	Public officers & employees	70.695; 70.755
	State employees	104.540
	Teachers	169.090
personal property	Appliances, household goods, furnishings, clothing, books, crops, animals, & musical instruments to \$1,000 total	513.430(1)
	Burial grounds to 1 acre or \$100	214.190
	Health aids	513.430(9)
	Jewelry to \$500	513.430(2)
	Motor vehicle to \$1,000	513.430(5)
	Personal injury causes of action	<i>In re Mitchell</i> , 73 B.R. 93 (E.D. Mo. 1987)
	Wrongful death recoveries for person you depended on	513.430(11)
public benefits	Public assistance	513.430(10)(a)
	Social Security	513.430(10)(a)
	Unemployment compensation	288.380(10)(l); 513.430(10)(c)
	Veterans' benefits	513.430(10)(b)
	Workers' compensation	287.260
tools of trade	Implements, books, & tools of trade to \$2,000	513.430(4)
wages	Minimum 75% of weekly earnings (90% of weekly earnings for head of family), or 30 times the federal minimum hourly wage, whichever is more; bankruptcy judge may authorize more for low-income debtors	525.030
	Wages of servant or common laborer to \$90	513.470
wild card	\$1,250 of any property if head of family, else \$400; head of family may claim additional \$250 per child.	513.430(3); 513.440

Montana

Federal Bankruptcy Exemptions not available. All law references are to Montana Code Annotated.

ASSET	EXEMPTION	LAW
homestead	Real property or mobile home you occupy to \$60,000; sale, condemnation, or insurance proceeds exempt for 18 months	70-32-104; 70-32-201; 70-32-213
	Must record homestead declaration before filing for bankruptcy	70-32-105
insurance	Annuity contract proceeds to \$350 per month	33-15-514
	Disability or illness proceeds, avails, or benefits	25-13-608(1)(d); 33-15-513
	Fraternal benefit society benefits	33-7-522
	Group life insurance policy or proceeds	33-15-512
	Hail insurance benefits	80-2-245
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	33-20-120
	Medical, surgical, or hospital care benefits	25-13-608(1)(f)
	Unmatured life insurance contracts to \$4,000	25-13-609(4)
miscellaneous	Alimony, child support	25-13-608(1)(g)
pensions	ERISA-qualified benefits deposited over 1 year before filing bankruptcy or up to 15% of debtor's gross annual income	31-2-106
	Firefighters	19-18-612(1)
	IRA contributions & earnings made before judgment filed	25-13-608(1)(e)
	Police officers	19-19-504(1)
	Public employees	19-2-1004
	Teachers	19-20-706(2)
	University system employees	19-21-212
personal property	Appliances, household furnishings, goods, animals with feed, crops, musical instruments, books, firearms, sporting goods, clothing, & jewelry to \$600 per item, \$4,500 total	25-13-609(1)
	Burial plot	25-13-608(1)(h)
	Cooperative association shares to \$500 value	35-15-404
	Health aids	25-13-608(1)(a)
	Motor vehicle to \$2,500	25-13-609(2)
	Proceeds from sale or for damage or loss of exempt property for 6 mos. after received	25-13-610
public benefits	Aid to aged, disabled needy persons	53-2-607
	Crime victims' compensation	53-9-129
	Local public assistance	25-13-608(1)(b)
	Silicosis benefits	39-73-110
	Social Security	25-13-608(1)(b)
	Subsidized adoption payments to needy persons	53-2-607
	Unemployment compensation	31-2-106(2); 39-51-3105
	Veterans' benefits	25-13-608(1)(c)
	Vocational rehabilitation to blind needy persons	53-2-607
	Workers' compensation	39-71-743
tools of trade	Implements, books, & tools of trade to \$3,000	25-13-609(3)
	Uniforms, arms, accoutrements needed to carry out government functions	25-13-613(b)
wages	Minimum 75% of earned but unpaid weekly disposable earnings, or 30 times the federal hourly minimum wage, whichever is greater; bankruptcy judge may authorize more for low-income debtors	25-13-614
wild card	None	

Nebraska

Federal Bankruptcy Exemptions not available. All law references are to Revised Statutes of Nebraska.

ASSET	EXEMPTION	LAW
homestead	\$12,500 for married debtor or head of household; cannot exceed 2 lots in city or village, 160 acres elsewhere; sale proceeds exempt 6 months after sale (husband & wife may not double)	40-101; 40-111; 40-113
	May record homestead declaration	40-105
insurance	Fraternal benefit society benefits to \$10,000 loan value unless beneficiary convicted of a crime related to benefits	44-1089
	Life insurance or annuity contract proceeds to \$10,000 loan value	44-371
pensions <i>see also wages</i>	County employees	23-2322
	ERISA-qualified benefits needed for support	25-1563.01
	Military disability benefits	25-1559
	School employees	79-948
	State employees	84-1324
personal property	Burial plot	12-517
	Clothing	25-1556(2)
	Furniture, household goods & appliances, household electronics, personal computers, books, & musical instruments to \$1,500	25-1556(3)
	Health aids	25-1556(5)
	Perpetual care funds	12-511
	Personal injury recoveries	25-1563.02
	Personal possessions	25-1556
public benefits	Aid to disabled, blind, aged; public assistance	68-1013
	Unemployment compensation	48-647
	Workers' compensation	48-149
tools of trade	Equipment or tools including a vehicle used in/or for commuting to principal place of business to \$2,400 (husband & wife may double)	25-1556(4); <i>In re Keller</i> , 50 B.R. 23 (D. Neb. 1985)
wages	Minimum 85% of earned but unpaid weekly disposable earnings or pension payments for head of family; minimum 75% of earned but unpaid weekly disposable earnings, or 30 times the federal hourly minimum wage, whichever is greater, for all others; bankruptcy judge may authorize more for low-income debtors	25-1558
wild card	\$2,500 of any personal property, except wages, in lieu of homestead	25-1552

Nevada

Federal Bankruptcy Exemptions not available. All law references are to Nevada Revised Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead	Real property or mobile home to \$200,000 (husband & wife may not double)	115.010; 21.090(1)(m)
	Must record homestead declaration before filing for bankruptcy	115.020
insurance	Annuity contract proceeds to \$350 per month	687B.290
	Fraternal benefit society benefits	695A.220
	Group life or health policy or proceeds	687B.280
	Health proceeds or avails	687B.270
	Life insurance policy or proceeds if annual premiums not over \$1,000 (husband & wife may double)	21.090(1)(k); <i>In re Bower</i> , 234 B.R. 109 (Nev. 1999)
	Life insurance proceeds if you're not the insured	687B.260

miscellaneous	Alimony and child support	21.090(1)(r)
	Property of business partnership	87.250
pensions	ERISA-qualified benefits or IRAs to \$500,000	21.090(1)(q)
	Public employees	286.670
personal property	Appliances, household goods, furniture, home & yard equipment to \$10,000 total	21.090(1)(b)
	Books to \$1,500	21.090(1)(a)
	Burial plot purchase money held in trust	689.700
	Funeral service contract money held in trust	689.700
	Health aids	21.090(1)(p)
	Keepsakes & pictures	21.090(1)(a)
	Metal-bearing ores, geological specimens, art curiosities, or paleontological remains; must be arranged, classified, catalogued, & numbered in reference books	21.100
	Mortgage impound accounts	645B.180
	Motor vehicle to \$15,000; no limit on vehicle equipped for disabled person	21.090(1)(f),(o)
	One gun	21.090(1)(i)
	Personal injury compensation to \$16,500	21.090(i)
	Restitution received for criminal act	21.090(w)
	Wrongful death awards to survivors	21.090(u)
public benefits	Aid to blind, aged, disabled; public assistance	422.291
	Industrial insurance (workers' compensation)	616C.205
	Unemployment compensation	612.710
	Vocational rehabilitation benefits	615.270
tools of trade	Arms, uniforms, & accoutrements you're required to keep	21.090(1)(j)
	Cabin or dwelling of miner or prospector; mining claim, cars, implements, & appliances to \$4,500 total (for working claim only)	21.090(1)(e)
	Farm trucks, stock, tools, equipment, & seed to \$4,500	21.090(1)(c)
	Library, equipment, supplies, tools, & materials to \$4,500	21.090(1)(d)
wages	Minimum 75% of disposable weekly earnings or 30 times the federal minimum hourly wage per week, whichever is more; bankruptcy judge may authorize more for low-income debtors	21.090(1)(g)
wild card	None	

New Hampshire

Federal Bankruptcy Exemptions available. All law references are to New Hampshire Revised Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead	Real property or manufactured housing (and the land it's on if you own it) to \$100,000	480:1
insurance	Firefighters' aid insurance	402:69
	Fraternal benefit society benefits	418:17
	Homeowners' insurance proceeds to \$5,000	512:21(VIII)
miscellaneous	Jury, witness fees	512:21(VI)
	Property of business partnership	304-A:25
	Wages of minor child	512:21(III)
pensions	Federally created pension (only benefits building up)	512:21(IV)
	Firefighters	102:23
	Police officers	103:18
	Public employees	100-A:26

personal property	Beds, bedding, & cooking utensils	511:2(II)
	Bibles & books to \$800	511:2(VIII)
	Burial plot, lot	511:2(XIV)
	Church pew	511:2(XV)
	Clothing	511:2(I)
	Cooking & heating stoves, refrigerator	511:2(IV)
	1 cow, 6 sheep & their fleece, 4 tons of hay	511:2(XI); (XII)
	Domestic fowl to \$300	511:2(XIII)
	Food & fuel to \$400	511:2(VI)
	Furniture to \$3,500	511:2(III)
	1 hog or pig or its meat (if slaughtered)	511:2(X)
	Jewelry to \$500	511:2(XVII)
	Motor vehicle to \$4,000	511:2(XVI)
	Proceeds for lost or destroyed exempt property	512:21(VIII)
	Sewing machine	511:2(V)
public benefits	Aid to blind, aged, disabled; public assistance	167:25
	Unemployment compensation	282-A:159
	Workers' compensation	281-A:52
tools of trade	Tools of your occupation to \$5,000	511:2(IX)
	Uniforms, arms, & equipment of military member	511:2(VII)
	Yoke of oxen or horse needed for farming or teaming	511:2(XII)
wages	50 times the federal minimum hourly wage per week	512:21(II)
	Earned but unpaid wages of spouse	512:21(III)
wild card	\$1,000 of any property	511:2(XVIII)
	Unused portion of bibles & books, food & fuel, furniture, jewelry, motor vehicle, and tools of trade exemptions to \$7,000	511:2(XVIII)

New Jersey

Federal Bankruptcy Exemptions available. All law references are to New Jersey Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead	None, but survivorship interest of a spouse in property held as tenancy by the entirety is exempt from creditors of a single spouse	<i>Freda v. Commercial Trust Co. of New Jersey</i> , 570 A.2d 409 (N.J., 1990)
insurance	Annuity contract proceeds to \$500 per month	17B:24-7
	Disability or death benefits for military member	38A:4-8
	Disability, death, medical, or hospital benefits for civil defense workers	App. A:9-57.6
	Disability benefits	17:18-12
	Group life or health policy or proceeds	17B:24-9
	Health or disability benefits	17:18-12; 17B:24-8
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	17B:24-10
	Life insurance proceeds or avails if you're not the insured	17B:24-6b
pensions	Alcohol beverage control officers	43:8A-20
	City boards of health employees	43:18-12
	Civil defense workers	App. A:9-57.6
	County employees	43:10-57; 43:10-105
	ERISA-qualified benefits for city employees	43:13-9
	Firefighters, police officers, traffic officers	43:16-7; 43:16A-17
	IRAs	<i>In re Yugas</i> , 104 F.3d 612 (3rd Cir. 1997)

	Judges	43:6A-41
	Municipal employees	43:13-44
	Prison employees	43:7-13
	Public employees	43:15A-53
	School district employees	18A:66-116
	State police	53:5A-45
	Street & water department employees	43:19-17
	Teachers	18A:66-51
	Trust containing personal property created pursuant to federal tax law, including 401(k) plans and higher education (529) savings plans.	25:2-1
personal property	Personal property & possessions of any kind, stock or interest in corporations to \$1,000 total	2A:17-19
	Burial plots	8A:5-10
	Clothing	2A:17-19
	Furniture & household goods to \$1,000	2A:26-4
public benefits	Crime victims' compensation	52:4B-30
	Old age, permanent disability assistance	44:7-35
	Unemployment compensation	43:21-53
	Workers' compensation	34:15-29
tools of trade	None	
wages	90% of earned but unpaid wages if annual income under \$7,500; if annual income over \$7,500, judge decides amount that is exempt	2A:17-56
	Wages or allowances received by military personnel	38A:4-8
wild card	None	

New Mexico

Federal Bankruptcy Exemptions available. All law references are to New Mexico Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead	\$30,000 (joint owners may double)	42-10-9
insurance	Benevolent association benefits to \$5,000	42-10-4
	Fraternal benefit society benefits	59A-44-18
	Life, accident, health, or annuity benefits, withdrawal or cash value, if beneficiary is a New Mexico resident	42-10-3
	Life insurance proceeds	42-10-5
miscellaneous	Ownership interest in unincorporated association	53-10-2
	Property of business partnership	54-1A-501
pensions	Pension or retirement benefits	42-10-1; 42-10-2
	Public school employees	22-11-42A
personal property	Books & furniture	42-10-1; 42-10-2
	Building materials	48-2-15
	Clothing	42-10-1; 42-10-2
	Cooperative association shares, minimum amount needed to be member	53-4-28
	Health aids	42-10-1; 42-10-2
	Jewelry to \$2,500	42-10-1; 42-10-2
	Materials, tools & machinery to dig, drill, complete, operate, or repair oil line, gas well, or pipeline	70-4-12
	Motor vehicle to \$4,000	42-10-1; 42-10-2
public benefits	Crime victims' compensation (will be repealed in 2006)	31-22-15
	General assistance	27-2-21
	Occupational disease disablement benefits	52-3-37
	Unemployment compensation	51-1-37
	Workers' compensation	52-1-52

tools of trade	\$1,500	42-10-1; 42-10-2
wages	Minimum 75% of disposable earnings or 40 times the federal hourly minimum wage, whichever is more; bankruptcy judge may authorize more for low-income debtors	35-12-7
wild card	\$500 of any personal property	42-10-1
	\$2,000 of any real or personal property, in lieu of homestead	42-10-10

New York

Federal Bankruptcy Exemptions not available. Law references to Consolidated Laws of New York; Civil Practice Law & Rules are abbreviated C.P.L.R.

ASSET	EXEMPTION	LAW
homestead	Real property including co-op, condo, or mobile home, to \$10,000 (husband & wife may double)	C.P.L.R. 5206(a); <i>In re Pearl</i> , 723 F.2d 193 (2nd Cir. 1983)
insurance	Annuity contract benefits due the debtor, if debtor paid for the contract; \$5,000 limit if purchased within 6 mos. prior to filing & not tax-deferred	Ins. 3212(d); Debt. & Cred. 283(1)
	Disability or illness benefits to \$400/month	Ins. 3212(c)
	Life insurance proceeds left at death with the insurance company, if clause prohibits proceeds from being used to pay beneficiary's creditors	Est. Powers & Trusts 7-1.5(a)(2)
	Life insurance proceeds and avails if the beneficiary is not the debtor, or if debtor's spouse has taken out policy	Ins. 3212(b)
miscellaneous	Alimony, child support	C.P.L.R. 5205 (d)(3); Debt. & Cred. 282(2)(d)
	Property of business partnership	Partnership 51
pensions	ERISA-qualified benefits, IRAs, & Keoghs & income needed for support	C.P.L.R. 5205(c); Debt. & Cred. 282(2)(e)
	Public retirement benefits	Ins. 4607
	State employees	Ret. & Soc. Sec. 10
	Teachers	Educ. 524
	Village police officers	Unconsolidated 5711-o
	Volunteer ambulance workers' benefits	Vol. Amb. Wkr. Ben. 23
	Volunteer firefighters' benefits	Vol. Firefighter Ben. 23
personal property	Bible, schoolbooks, other books to \$50; pictures; clothing; church pew or seat; sewing machine, refrigerator, TV, radio; furniture, cooking utensils & tableware, dishes; food to last 60 days; stoves with fuel to last 60 days; domestic animal with food to last 60 days, to \$450; wedding ring; watch to \$35; exemptions may not exceed \$5,000 total (including tools of trade & limited annuity)	C.P.L.R. 5205(a)(1)-(6); Debt. & Cred. 283(1)
	Burial plot without structure to 1/4 acre	C.P.L.R. 5206(f)
	Cash (including savings bonds, tax refunds, bank & credit union deposits) to \$2,500, or to \$5,000 after exemptions for personal property taken, whichever amount is less (for debtors who do not claim homestead)	Debt. & Cred. 283(2)
	College tuition savings program trust fund	C.P.L.R. 5205(j)
	Health aids, including service animals with food	C.P.L.R. 5205(h)
	Lost future earnings recoveries needed for support	Debt. & Cred. 282(3)(iv)
	Motor vehicle to \$2,400 (husband & wife may double)	Debt. & Cred. 282(1); <i>In re Miller</i> , 167 B.R. 782 (S.D. N.Y. 1994)
	Personal injury recoveries up to 1 year after receiving	Debt. & Cred. 282(3)(iii)
	Recovery for injury to exempt property up to 1 year after receiving	C.P.L.R. 5205(b)
	Savings & loan savings to \$600	Banking 407
	Security deposit to landlord, utility company	C.P.L.R. 5205(g)
	Spendthrift trust fund principal, 90% of income if not created by debtor	C.P.L.R. 5205(c),(d)
	Wrongful death recoveries for person you depended on	Debt. & Cred. 282(3)(ii)
public benefits	Aid to blind, aged, disabled	Debt. & Cred. 282(2)(c)
	Crime victims' compensation	Debt. & Cred. 282(3)(i)
	Home relief, local public assistance	Debt. & Cred. 282(2)(a)
	Public assistance	Soc. Serv. 137
	Social Security	Debt. & Cred. 282(2)(a)
	Unemployment compensation	Debt. & Cred. 282(2)(a)
	Veterans' benefits	Debt. & Cred. 282(2)(b)
	Workers' compensation	Debt. & Cred. 282(2)(c); Work. Comp. 33, 218

tools of trade	Farm machinery, team & food for 60 days; professional furniture, books, & instruments to \$600 total	C.P.L.R. 5205(a),(b)
wages	Uniforms, medal, emblem, equipment, horse, arms, & sword of member of military	C.P.L.R. 5205(e)
	90% of earned but unpaid wages received within 60 days before & anytime after filing	C.P.L.R. 5205(d)
	90% of earnings from dairy farmer's sales to milk dealers	C.P.L.R. 5205(f)
	100% of pay of noncommissioned officer, private, or musician in U.S. or N.Y. state armed forces	C.P.L.R. 5205(e)
wild card	None	

North Carolina

Federal Bankruptcy Exemptions not available. All law references are to General Statutes of North Carolina unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Real or personal property, including co-op, used as residence to \$10,000; up to \$3,500 of unused portion of homestead may be applied to any property (husband and wife may double)	1C-1601(a)(1),(2)
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re Chandler</i> , 148 B.R. 13 (E.D. N.C., 1992)
insurance	Employee group life policy or proceeds	58-58-165
	Life insurance on spouse or children	1C-1601(a)(6); Const. Art. X § 5
	Fraternal benefit society benefits	58-24-85
miscellaneous	Property of business partnership	59-55
	Support received by a surviving spouse for 1 year, up to \$10,000	30-15
pensions	Firefighters & rescue squad workers	58-86-90
	IRAs	1C-1601(a)(9)
	Law enforcement officers	143-166.30(g)
	Legislators	120-4.29
	Municipal, city, & county employees	128-31
	Teachers & state employees	135-9; 135-95
personal property	Animals, crops, musical instruments, books, clothing, appliances, household goods & furnishings to \$3,500 total; may add \$750 per dependent, up to \$3,000 total additional (all property must have been purchased at least 90 days before filing)	1C-1601(a)(4),(d)
	Burial plot to \$10,000, in lieu of homestead	1C-1601(a)(1)
	Health aids	1C-1601(a)(7)
	Motor vehicle to \$1,500	1C-1601(a)(3)
	Personal injury and wrongful death recoveries for person you depended on	1C-1601(a)(8)
public benefits	Aid to blind	111-18
	Crime victims' compensation	15B-17
	Special adult assistance	108A-36
	Unemployment compensation	96-17
	Workers' compensation	97-21
tools of trade	Implements, books, & tools of trade to \$750	1C-1601(a)(5)
wages	Earned but unpaid wages received 60 days before filing for bankruptcy, needed for support	1-362
wild card	\$3,500 less any amount claimed for homestead or burial exemption, of any property	1C-1601(a)(2)
	\$500 of any personal property	Constitution Art. X § 1

North Dakota

Federal Bankruptcy Exemptions not available. All law references are to North Dakota Century Code.

ASSET	EXEMPTION	LAW
homestead	Real property, house trailer, or mobile home to \$80,000 (husband & wife may not double)	28-22-02(10); 47-18-01
insurance	Fraternal benefit society benefits	26.1-15.1-18; 26.1-33-40
	Life insurance proceeds payable to deceased's estate, not to a specific beneficiary	26.1-33-40
	Life insurance surrender value to \$100,000 per policy, if beneficiary is insured's dependent & policy was owned over 1 year before filing for bankruptcy; limit does not apply if more needed for support	28-22-03.1(3)
miscellaneous	Child support payments	14-09-09.31
pensions	Disabled veterans' benefits, except military retirement pay	28-22-03.1(4)(d)
	ERISA-qualified benefits, IRAs, & Keoghs to \$100,000 per plan; limit does not apply if more needed for support; total exemption (with life insurance surrender value) cannot exceed \$200,000	28-22-03.1(3)
	Public employees	28-22-19(1)
personal property	1. All debtors may exempt:	
	Bible, schoolbooks; other books to \$100	28-22-02(4)
	Burial plots, church pew	28-22-02(2),(3)
	Cash to \$7,500, in lieu of homestead	28-22-03.1(1)
	Clothing & family pictures	28-22-02(1),(5)
	Crops or grain raised by debtor on 160 acres where debtor resides	28-22-02(8)
	Food & fuel to last 1 year	28-22-02(6)
	Insurance proceeds for exempt property	28-22-02(9)
	Motor vehicle to \$1,200 or \$32,000 for vehicle that has been modified to accommodate owner's disability	28-22-03.1(2)
	Personal injury recoveries to \$7,500	28-22-03.1(4)(b)
	Wrongful death recoveries to \$7,500	28-22-03.1(4)(a)
	2. Head of household not claiming crops or grain may claim \$5,000 of any personal property or:	28-22-03
	Books & musical instruments to \$1,500	28-22-04(1)
	Household & kitchen furniture, beds & bedding, to \$1,000	28-22-04(2)
	Library & tools of professional, tools of mechanic, & stock in trade, to \$1,000	28-22-04(4)
	Livestock & farm implements to \$4,500	28-22-04(3)
	3. Non-head of household not claiming crops or grain may claim \$2,500 of any personal property	28-22-05
public benefits	Crime victims' compensation	28-22-19(2)
	Public assistance	28-22-19(3)
	Social Security	28-22-03.1(4)(c)
	Unemployment compensation	52-06-30
	Workers' compensation	65-05-29
tools of trade	See personal property, option 2	
wages	Minimum 75% of disposable weekly earnings or 40 times the federal minimum wage, whichever is more; bankruptcy judge may authorize more for low-income debtors	32-09.1-03
wild card	See personal property, options 2 or 3	

Ohio

Federal Bankruptcy Exemptions not available. All law references are to Ohio Revised Code unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Real or personal property used as residence to \$5,000	2329.66(A)(1)(b)
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re Pernus</i> , 143 B.R. 856 (N.D. Ohio, 1992)
insurance	Benevolent society benefits to \$5,000	2329.63; 2329.66(A)(6)(a)
	Disability benefits to \$600 per month	2329.66(A)(6)(e); 3923.19
	Fraternal benefit society benefits	2329.66(A)(6)(d); 3921.18
	Group life insurance policy or proceeds	2329.66(A)(6)(c); 3917.05
	Life, endowment, or annuity contract avails for your spouse, child, or dependent	2329.66(A)(6)(b); 3911.10
	Life insurance proceeds for a spouse	3911.12
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	3911.14
miscellaneous	Alimony, child support needed for support	2329.66(A)(11)
	Property of business partnership	1775.24; 2329.66(A)(14)
pensions	ERISA-qualified benefits needed for support	2329.66(A)(10)(b)
	Firefighters, police officers	742.47
	Public safety officers' death benefit	2329.66(A)(10)(a)
	IRAs & Keoghs needed for support	2329.66(A)(10)(c)
	Public employees	145.56
	Public school employees	3309.66
	State highway patrol employees	5505.22
	Volunteer firefighters' dependents	146.13
personal property	Animals, crops, books, musical instruments, appliances, household goods, furnishings, firearms, hunting & fishing equipment to \$200 per item; jewelry to \$400 for 1 item, \$200 for all others; \$1,500 total (\$2,000 if no homestead exemption claimed) (husband & wife may double)	2329.66(A)(4)(b),(c),(d); <i>In re Szydlowski</i> , 186 B.R. 907 (N.D. Ohio 1995)
	Beds, bedding, clothing to \$200 per item	2329.66(A)(3)
	Burial plot	517.09; 2329.66(A)(8)
	Cash, money due within 90 days, tax refund, bank, security, & utility deposits to \$400 total (husband & wife may double)	2329.66(A)(4)(a); <i>In re Szydlowski</i> , 186 B.R. 907 (N.D. Ohio 1995)
	Cooking unit & refrigerator to \$300 each	2329.66(A)(3)
	Health aids	2329.66(A)(7)
	Lost future earnings needed for support, received during 12 months before filing	2329.66(A)(12)(d)
	Motor vehicle to \$1,000	2329.66(A)(2)(b)
	Personal injury recoveries to \$5,000, received during 12 months before filing	2329.66(A)(12)(c)
	Tuition credit or payment	2329.66(A)(6)
	Wrongful death recoveries for person debtor depended on, needed for support, received during 12 months before filing	2329.66(A)(12)(b)
public benefits	Crime victim's compensation, received during 12 months before filing	2329.66(A)(12)(a); 2743.66(D)
	Disability assistance payments	2329.66(A)(9)(f); 5115.07
	Public assistance	2329.66(A)(9)(d); 5107.12
	Unemployment compensation	2329.66(A)(9)(c); 4141.32

	Vocational rehabilitation benefits	2329.66(A)(9)(a); 3304.19
	Workers' compensation	2329.66(A)(9)(b); 4123.67
tools of trade	Implements, books, & tools of trade to \$750	2329.66(A)(5)
wages	Minimum 75% of disposable weekly earnings or 40 times the federal hourly minimum wage, whichever is higher; bankruptcy judge may authorize more for low-income debtors	2329.66(A)(13)
wild card	\$400 of any property	2329.66(A)(17)

Oklahoma

Federal Bankruptcy Exemptions not available. All law references are to Oklahoma Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead	Real property or manufactured home to unlimited value; property cannot exceed 1 acre in city, town, or village, or 160 acres elsewhere; \$5,000 limit if more than 25% of total sq. ft. area used for business purposes; okay to rent homestead as long as no other residence is acquired	31-1(A)(1); 31-1(A)(2); 31-2
insurance	Annuity benefits & cash value	36-3631.1
	Assessment or mutual benefits	36-2410
	Fraternal benefit society benefits	36-2718.1
	Funeral benefits prepaid & placed in trust	36-6125
	Group life policy or proceeds	36-3632
	Life, health, accident, & mutual benefit insurance proceeds & cash value, if clause prohibits proceeds from being used to pay beneficiary's creditors	36-3631.1
	Limited stock insurance benefits	36-2510
miscellaneous	Alimony, child support	31-1(A)(19)
	Property of business partnership	54-1-504
pensions	County employees	19-959
	Disabled veterans	31-7
	ERISA-qualified benefits, IRAs, & Keoghs	31-1(A)(20),(23),(24)
	Firefighters	11-49-126
	Judges	20-1111
	Law enforcement employees	47-2-303.3
	Police officers	11-50-124
	Public employees	74-923
	Tax exempt benefits	60-328
	Teachers	70-17-109
personal property	Books, portraits, & pictures	31-1(A)-7
	Burial plots	31-1(A)(4); 8-7
	Clothing to \$4,000	31-1(A)(8)
	Federal earned income tax credit	31-1(A)(25)
	Food & seed for growing to last 1 year	31-1(A)(17)
	1 gun	31-1(A)(14)
	Health aids	31-1(A)(9)
	Household & kitchen furniture	31-1(A)(3)
	Livestock for personal or family use: 5 dairy cows & calves under 6 months; 100 chickens; 20 sheep; 10 hogs; 2 horses, bridles, & saddles; forage & feed to last 1 year	31-1(A)(10),(11),(12), (15),(16),(17)
	Motor vehicle to \$3,000	31-1(A)(13)
	Personal injury & wrongful death recoveries to \$50,000	31-1(A)(21)

public benefits	Prepaid funeral benefits	36-6125(H)
	War bond payroll savings account	51-42
	Crime victims' compensation	21-142.13
	Public assistance	56-173
	Social Security	56-173
	Unemployment compensation	40-2-303
	Workers' compensation	85-48
tools of trade	Implements needed to farm homestead, tools, books, & apparatus to \$5,000 total	31-1(A)(5),(6); 31-1(C)
wages	75% of wages earned in 90 days before filing bankruptcy; bankruptcy judge may allow more if you show hardship	12-1171.1; 31-1(A)(18); 31-1.1
wild card	None	

Oregon

Federal Bankruptcy Exemptions not available. All law references are to Oregon Revised Statutes.

ASSET	EXEMPTION	LAW
homestead	Real property you occupy or intend to occupy to \$25,000 (\$33,000 for joint owners); mobile home on property you own or houseboat to \$23,000 (\$30,000 for joint owners); mobile home not on your land to \$20,000 (\$27,000 for joint owners); property cannot exceed 1 block in town or city or 160 acres elsewhere; sale proceeds exempt 1 year from sale, if you intend to purchase another home	23.164; 23.240; 23.250
	Tenancy by entirety not exempt, but subject to rights of nondebtor spouse	<i>In re Pletz</i> , 225 B.R. 206 (D. Or., 1997)
insurance	Real property of a soldier or sailor during time of war	408.440
	Annuity contract benefits to \$500 per month	743.049
	Fraternal benefit society benefits	748.207
	Group life policy or proceeds not payable to insured	743.047
	Health or disability proceeds or avails	743.050
	Life insurance proceeds or cash value if you are not the insured	743.046
miscellaneous	Alimony, child support needed for support	23.160(1)(i)
	Liquor licenses	471.292 (1)
	Property of business partnership	68.420
pensions	ERISA-qualified benefits, including IRAs and SEPs	23.170
	Public officers, employees	237.980; 238.445; 23.166 (2)
personal property	Bank deposits to \$7,500; cash for sold exempt property	23.166
	Books, pictures, & musical instruments to \$600 total (husband & wife may double)	23.160(1)(a)
	Burial plot	65.870
	Clothing, jewelry, & other personal items to \$1,800 total (husband & wife may double)	23.160(1)(b)
	Domestic animals, poultry, & pets to \$1,000, plus food to last 60 days	23.160(1)(e)
	Federal earned income tax credit	23.160(1)(n)
	Food & fuel to last 60 days if debtor is householder	23.160(1)(f)
	Furniture, household items, utensils, radios, & TVs to \$3,000 total	23.160(1)(f)
	Health aids	23.160(1)(h)
	Higher education tuition savings account to \$7,500	348.863; 23.166(1)
	Lost earnings payments for debtor or someone debtor depended on, to extent needed (husband & wife may double)	23.160(1)(l),(3)
	Motor vehicle to \$1,700 (husband & wife may double)	23.160(1)(d),(3)
	Personal injury recoveries to \$10,000 (husband & wife may double)	23.160(1)(k),(3)
	Pistol; rifle or shotgun (owned by person over 16) to \$1,000	23.200

public benefits	Aid to blind	412.115
	Aid to disabled	412.610
	Civil defense & disaster relief	401.405
	Crime victims' compensation (husband & wife each claim)	23.160(1)(i)(A),(3); 147.325
	General assistance	411.760
	Injured inmates' benefits	655.530
	Medical assistance	414.095
	Old-age assistance	413.130
	Unemployment compensation	657.855
	Veterans' benefits	407.125
tools of trade	Vocational rehabilitation	344.580
	Workers' compensation	656.234
wages	Tools, library, team with food to last 60 days, to \$3,000 (husband & wife may double)	23.160(1)(c),(3)
	75% of disposable wages or \$170 per week, whichever is greater; bankruptcy judge may authorize more for low-income debtors	23.186
	Wages withheld in state employee's bond savings accounts	292.070
wild card	\$400 of any personal property not already covered by existing exemption (husband & wife may double)	23.160(1)(o)

Pennsylvania

Federal Bankruptcy Exemptions available. All law references are to Pennsylvania Consolidated Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead	None; however, property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re Martin</i> , 259 B.R. 119 (M.D. Pa. 2001)
insurance	Accident or disability benefits	42-8124(c)(7)
	Fraternal benefit society benefits	42-8124(c)(1),(8)
	Group life policy or proceeds	42-8124(c)(5)
	Insurance policy or annuity contract payments, where insured is the beneficiary, cash value or proceeds to \$100 per month	42-8124(c)(3)
	Life insurance annuity policy cash value or proceeds if beneficiary is insured's dependent, child, or spouse	42-8124(c)(6)
	Life insurance and annuity proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	42-8214(c)(4)
	No-fault automobile insurance proceeds	42-8124(c)(9)
miscellaneous pensions	Property of business partnership	15-8342
	City employee	53-13445; 53-23572; 53-39383; 42-8124(b)(1)(iv)
	County employees	16-4716
	Municipal employees	53-881,115; 42-8124(b)(1)(vi)
	Police officers	53-764; 53-776; 53-23666; 42-8124(b)(1)(iii)
	Private retirement benefits to extent tax-deferred, if clause prohibits proceeds from being used to pay beneficiary's creditors; exemption limited to deposits of \$15,000 per year made at least 1 year before filing (limit does not apply to rollovers from other exempt funds or accounts)	42-8124(b)(1)(viii), (viii),(ix)
personal property	Public school employees	24-8533; 42-8124(b)(1)(i)
	State employees	71-5953; 42-8124(b)(1)(ii)
	Bibles & schoolbooks	42-8124(a)(2)
	Clothing	42-8124(a)(1)
	Military uniforms & accoutrements	42-8124(a)(4); 51-4103
	Sewing machines	42-8124(a)(3)

public benefits	Crime victims' compensation	18-11.708
	Korean conflict veterans' benefits	51-20098
	Unemployment compensation	42-8124(a)(10); 43-863
	Veterans' benefits	51-20012; 20048; 20098; 20127
	Workers' compensation	42-8124(c)(2)
tools of trade	Seamstress's sewing machine	42-8124(a)(3)
wages	Earned but unpaid wages	42-8127
wild card	\$300 of any property, including cash, real property, securities, or proceeds from sale of exempt property	42-8123

Rhode Island

Federal Bankruptcy Exemptions available. All law references are to General Laws of Rhode Island.

ASSET	EXEMPTION	LAW
homestead	\$150,000 in land & buildings you occupy or intend to occupy as a principal residence (husband & wife may not double)	9-26-4.1
insurance	Accident or sickness proceeds, avails, or benefits	27-18-24
	Fraternal benefit society benefits	27-25-18
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	27-4-12
	Temporary disability insurance	28-41-32
miscellaneous	Earnings of a minor child	9-26-4(9)
	Property of business partnership	7-12-36
pensions	ERISA-qualified benefits	9-26-4(12)
	Firefighters	9-26-5
	IRAs	9-26-4(11)
	Police officers	9-26-5
	Private employees	28-17-4
	State & municipal employees	36-10-34
personal property	Beds, bedding, furniture, household goods, & supplies, to \$8,600 total (husband & wife may not double)	9-26-4(3); <i>In re Petrozella</i> , 247 B.R. 591 (R.I. 2000)
	Bibles & books to \$300	9-26-4(4)
	Burial plot	9-26-4(5)
	Clothing	9-26-4(1)
	Consumer cooperative association holdings to \$50	7-8-25
	Debt secured by promissory note or bill of exchange	9-26-4(7)
	Jewelry to \$1,000	9-26-4 (14)
	Motor vehicles to \$10,000	9-26-4 (13)
	Prepaid tuition program or tuition savings account	9-26-4 (15)
	Aid to blind, aged, disabled; general assistance	40-6-14
public benefits	State disability benefits	28-41-32
	Unemployment compensation	28-44-58
	Veterans' disability or survivors' death benefits	30-7-9
	Workers' compensation	28-33-27
	Library of practicing professional	9-26-4(2)
tools of trade	Working tools to \$1,200	9-26-4(2)

wages	Earned but unpaid wages to \$50	9-26-4(8)(iii)
	Earned but unpaid wages due military member on active duty	30-7-9
	Earned but unpaid wages due seaman	9-26-4(6)
	Wages of any person who had been receiving public assistance are exempt for 1 year after going off of relief	9-26-4(8)(ii)
	Wages of spouse & minor children	9-26-4(9)
	Wages paid by charitable organization or fund providing relief to the poor	9-26-4(8)(i)
wild card	None	

South Carolina

Federal Bankruptcy Exemptions not available. All law references are to Code of Laws of South Carolina.

ASSET	EXEMPTION	LAW
homestead	Real property, including co-op, to \$5,000 (joint owners may double)	15-41-30(1)
insurance	Accident & disability benefits	38-63-40(D)
	Benefits accruing under life insurance policy after death of insured, where proceeds left with insurance company pursuant to agreement; benefits not exempt from action to recover necessities if parties agree	38-63-50
	Disability or illness benefits	15-41-30(10)(C)
	Fraternal benefit society benefits	38-38-330
	Group life insurance proceeds; cash value to \$50,000	38-63-40(C); 38-65-90
	Life insurance avails from policy for person you depended on to \$4,000	15-41-30(8)
	Life insurance proceeds from policy for person you depended on, needed for support	15-41-30(11)(C)
	Proceeds & cash surrender value of life insurance payable to beneficiary other than insured's estate and for the express benefit of insured's spouse, children, or dependents (must be purchased 2 years before filing)	38-63-40(A)
	Proceeds of life insurance or annuity contract	38-63-40(B)
miscellaneous	Unmatured life insurance contract, except credit insurance policy	15-41-30(7)
	Alimony, child support	15-41-30(10)(D)
	Property of business partnership	33-41-720
pensions	ERISA-qualified benefits; your share of the pension plan fund	15-41-30(10)(E),(13)
	Firefighters	9-13-230
	General assembly members	9-9-180
	IRAs	15-41-30(12)
	Judges, solicitors	9-8-190
	Police officers	9-11-270
	Public employees	9-1-1680
personal property	Animals, crops, appliances, books, clothing, household goods, furnishings, musical instruments to \$2,500 total	15-41-30(3)
	Burial plot to \$5,000, in lieu of homestead (joint owners may double)	15-41-30(1)
	Cash & other liquid assets to \$1,000, in lieu of burial or homestead exemption	15-41-30(5)
	College investment program trust fund	59-2-140
	Health aids	15-41-30(9)
	Jewelry to \$500	15-41-30(4)
	Motor vehicle to \$1,200	15-41-30(2)
	Personal injury & wrongful death recoveries for person you depended on for support	15-41-30(11)(B)
public benefits	Crime victims' compensation	15-41-30(11)(A); 16-3-1300
	General relief; aid to aged, blind, disabled	43-5-190

	Local public assistance	15-41-30(10)(A)
	Social Security	15-41-30(10)(A)
	Unemployment compensation	15-41-30(10)(A)
	Veterans' benefits	15-41-30(10)(B)
	Workers' compensation	42-9-360
tools of trade	Implements, books, & tools of trade to \$750	15-41-30(6)
wages	None (use federal nonbankruptcy wage exemption)	
wild card	None	

South Dakota

Federal Bankruptcy Exemptions not available. All law references are to South Dakota Codified Laws.

ASSET	EXEMPTION	LAW
homestead	Real property to unlimited value or mobile home (larger than 240 sq. ft. at its base and registered in state at least 6 months before filing) to unlimited value; property cannot exceed 1 acre in town or 160 acres elsewhere; sale proceeds to \$30,000 (no limit if over age 70 or widow or widower who hasn't remarried) exempt for 1 year after sale (husband & wife may not double)	43-31-1; 43-31-2; 43-31-3; 43-31-4
	(Gold or silver mine, mill, or smelter not exempt)	43-31-5
	Spouse or child of deceased owner may claim homestead exemption	43-31-13
	May file homestead declaration	43-31-6
insurance	Annuity contract proceeds to \$250 per month	58-12-6; 58-12-8
	Endowment, life insurance, policy proceeds to \$20,000; if policy issued by mutual aid or benevolent society, cash value to \$20,000	58-12-4
	Fraternal benefit society benefits	58-37A-18
	Health benefits to \$20,000	58-12-4
	Life insurance proceeds, if clause prohibits proceeds from being used to pay beneficiary's creditors	58-15-70
	Life insurance proceeds to \$10,000, if beneficiary is surviving spouse or child	43-45-6
pensions	City employees	9-16-47
	ERISA-qualified benefits, limited to income & distribution on \$250,000	43-45-16
	Public employees	3-12-115
personal property	Bible, schoolbooks; other books to \$200	43-45-2(4)
	Burial plots, church pew	43-45-2(2),(3)
	Clothing	43-45-2(5)
	Family pictures	43-45-2(1)
	Food & fuel to last 1 year	43-45-2(6)
public benefits	Crime victim's compensation	23A-28B-24
	Public assistance	28-7A-18
	Unemployment compensation	61-6-28
	Workers' compensation	62-4-42
tools of trade	None	
wages	Earned wages owed 60 days before filing bankruptcy, needed for support of family	15-20-12
	Wages of prisoners in work programs	24-8-10
wild card	Head of family may claim \$6,000, or nonhead of family may claim \$4,000 of any personal property	43-45-4

Tennessee

Federal Bankruptcy Exemptions not available. All law references are to Tennessee Code Annotated unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	\$5,000; \$7,500 for joint owners	26-2-301
	Life estate	26-2-302
	2-15 year lease	26-2-303
	Spouse or child of deceased owner may claim homestead exemption	26-2-301
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re Arango</i> , 136 B.R. 740 aff'd, 992 F.2d 611 (6th Cir. 1993)
insurance	Accident, health, or disability benefits for resident & citizen of Tennessee	26-2-110
	Disability or illness benefits	26-2-111(1)(C)
	Fraternal benefit society benefits	56-25-1403
miscellaneous	Alimony, child support owed for 30 days before filing for bankruptcy	26-2-111(1)(E)
pensions	ERISA-qualified benefits, IRAs, & Roth IRAs	26-2-111(1)(D)
	Public employees	8-36-111
	State & local government employees	26-2-105
	Teachers	49-5-909
personal property	Bible, schoolbooks, family pictures, & portraits	26-2-104
	Burial plot to 1 acre	26-2-305; 46-2-102
	Clothing & storage containers	26-2-104
	Health aids	26-2-111(5)
	Lost future earnings payments for you or person you depended on	26-2-111(3)
	Personal injury recoveries to \$7,500; wrongful death recoveries to \$10,000 (\$15,000 total for personal injury, wrongful death, & crime victims' compensation)	26-2-111(2)(B),(C)
public benefits	Aid to blind	71-4-117
	Aid to disabled	71-4-1112
	Crime victims' compensation to \$5,000 (see personal property)	26-2-111(2)(A); 29-13-111
	Local public assistance	26-2-111(1)(A)
	Old-age assistance	71-2-216
	Social Security	26-2-111(1)(A)
	Unemployment compensation	26-2-111(1)(A)
	Veterans' benefits	26-2-111(1)(B)
	Workers' compensation	50-6-223
tools of trade	Implements, books, & tools of trade to \$1,900	26-2-111(4)
wages	Minimum 75% of disposable weekly earnings or 30 times the federal minimum hourly wage, whichever is more, plus \$2.50 per week per child; bankruptcy judge may authorize more for low-income debtors	26-2-106, 107
wild card	\$4,000 of any personal property including deposits on account with any bank or financial institution	26-2-103

Texas

Federal Bankruptcy Exemptions available. All law references are to Texas Revised Civil Statutes Annotated unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Unlimited; property cannot exceed 10 acres in town, village, city or 100 acres (200 for families) elsewhere; sale proceeds exempt for 6 months after sale (renting okay if another home not acquired, Prop. 41.003) Must file homestead declaration, or court will file it for you and charge you for doing so	Prop. 41.001; 41.002; Const. Art. 16 §§ 50, 51 Prop. 41.005(f); 41.021 to 41.023
insurance	Church benefit plan benefits Fraternal benefit society benefits Life, health, accident, or annuity benefits, monies, policy proceeds, & cash values due or paid to beneficiary or insured Texas employee uniform group insurance Texas public school employees group insurance Texas state college or university employee benefits	1407a (6) Ins. 10.28 Ins. 21.22 Ins. 1575.006 Ins. 1575.006 Ins. 1601.008
miscellaneous	Alimony and child support Liquor licenses and permits Property of business partnership	Prop. 42.001(b)(3) Alco.Bev.Code 11.03 6132b-5.01
pensions	County & district employees ERISA-qualified government or church benefits, including Keoghs and IRAs Firefighters Judges Law enforcement officers, firefighters, emergency medical personnel survivors Municipal employees & elected officials, state employees Police officers Retirement benefits to extent tax-deferred Teachers Athletic and sporting equipment, including bicycles Clothing & food 2 firearms Higher education savings plan trust account Home furnishings including family heirlooms Jewelry (limited to 25% of total exemption) 1 two-, three- or four-wheeled motor vehicle per family member or per single adult who holds a driver's license; or, if not licensed, who relies on someone else to operate vehicle Pets & domestic animals plus their food: 2 horses, mules, or donkeys & tack; 12 head of cattle; 60 head of other livestock; 120 fowl Burial plots (exempt from total) Health aids (exempt from total)	Gov't. 811.006 Prop. 42.0021 6243e(5); 6243a-1(8.03); 6243b(15); 6243e(5); 6243e.1(1.04) Gov't. 831.004 Gov't. 615.005 6243h(22); Gov't. 811.005 6243d-1(17); 6243i(20); 6243a-1(8.03); 6243b(15); 6243d-1(17) Prop. 42.0021 Gov't. 821.005 Prop. 42.002(a)(8) Prop. 42.002(a)(2),(5) Prop. 42.002(a)(7) Educ. 54.709(e) Prop. 42.002(a)(1) Prop. 42.002(a)(6) Prop. 42.002(a)(9) Prop. 42.002(a)(10),(11) Prop. 41.001 Prop. 42.001(b)(2)
personal property <i>to \$60,000 total for family, \$30,000 for single adult (see also tools of trade)</i>		
public benefits	Crime victims' compensation Medical assistance Public assistance Unemployment compensation Workers' compensation	Crim. Proc. 56.49 Hum. Res. 32.036 Hum. Res. 31.040 Labor 207.075 Labor 408.201

tools of trade <i>included in aggregate dollar limits for personal property</i>	Farming or ranching vehicles & implements	Prop. 42.002(a)(3)
	Tools, equipment (includes boat & motor vehicles used in trade), & books	Prop. 42.002(a)(4)
wages	Earned but unpaid wages	Prop. 42.001(b)(1)
	Unpaid commissions not to exceed 25% of total personal property exemptions	Prop. 42.001(d)
wild card	None	

Utah

Federal Bankruptcy Exemptions not available. All law references are to Utah Code.

ASSET	EXEMPTION	LAW
homestead	Real property, mobile home, or water rights to \$20,000 if primary residence; \$5,000 if not primary residence (joint owners may double)	78-23-3(1),(2),(4)
	Must file homestead declaration before attempted sale of home	78-23-4
	Sale proceeds exempt for 1 year	78-23-3(5)(b)
insurance	Disability, illness, medical, or hospital benefits	78-23-5(1)(a)(iii)
	Fraternal benefit society benefits	31A-9-603
	Life insurance policy cash surrender value to \$5,000	78-23-7
	Life insurance proceeds if beneficiary is insured's spouse or dependent, as needed for support	78-23-6(2)
	Medical, surgical, and hospital benefits	78-23-5(1)(a)(iv)
miscellaneous	Alimony needed for support	78-23-5(1)(a)(vi); 78-23-6(1)
	Child support	78-23-5(1)(f),(k)
	Property of business partnership	48-1-22
pensions	ERISA-qualified benefits, IRAs, Keoghs (benefits that have accrued & contributions that have been made at least 1 year prior to filing)	78-23-5(1)(a)(x)
	Public employees	49-1-609
	Other pensions & annuities needed for support	78-23-6(3)
personal property	Animals, books, & musical instruments to \$500	78-23-8(1)(c)
	Artwork depicting, or done by, a family member	78-23-5(1)(a)(viii)
	Bed, bedding, carpets	78-23-5(1)(a)(vii)
	Burial plot	78-23-5(1)(a)(i)
	Clothing (cannot claim furs or jewelry)	78-23-5(1)(a)(vii)
	Dining & kitchen tables & chairs to \$500	78-23-8(1)(b)
	Food to last 12 months	78-23-5(1)(a)(vii)
	Health aids	78-23-5(1)(a)(iii)
	Heirlooms to \$500	78-23-8(1)(d)
	Motor vehicle to \$2,500	78-23-8(3)
	Personal injury, wrongful death recoveries for you or person you depended on	78-23-5(1)(a)(ix)
	Proceeds for sold, lost, or damaged exempt property	78-23-9
	Refrigerator, freezer, microwave, stove, sewing machine, washer & dryer	78-23-5(1)(a)(vii)
	Sofas, chairs, & related furnishings to \$500	78-23-8(1)(a)

public benefits	Crime victims' compensation	63-25a-421(4)
	General assistance	35A-3-112
	Occupational disease disability benefits	34A-3-107
	Unemployment compensation	35A-4-103(4)(b)
	Veterans' benefits	78-23-5(1)(a)(v)
	Workers' compensation	34A-2-422
tools of trade	Implements, books, & tools of trade to \$3,500	78-23-8(2)
	Military property of National Guard member	39-1-47
wages	Minimum 75% of disposable weekly earnings or 30 times the federal hourly minimum wage, whichever is more; bankruptcy judge may authorize more for low-income debtors	70C-7-103
wild card	None	

Vermont

Federal Bankruptcy Exemptions available. All law references are to Vermont Statutes Annotated unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Real property or mobile home to \$75,000; may also claim rents, issues, profits, & outbuildings (husband and wife may double)	27-101
	Spouse of deceased owner may claim homestead exemption	27-105
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re McQueen</i> , 21 B.R. 736 (D. Ver. 1982)
insurance	Annuity contract benefits to \$350 per month	8-3709
	Disability benefits that supplement life insurance or annuity contract	8-3707
	Disability or illness benefits needed for support	12-2740(19)(C)
	Fraternal benefit society benefits	8-4478
	Group life or health benefits	8-3708
	Health benefits to \$200 per month	8-4086
	Life insurance proceeds if beneficiary is not the insured	8-3706
	Life insurance proceeds for person you depended on	12-2740(19)(H)
	Life insurance proceeds if clause prohibits proceeds from being used to pay beneficiary's creditors	8-3705
miscellaneous	Unmatured life insurance contract other than credit	12-2740(18)
	Alimony, child support	12-2740(19)(D)
pensions	Municipal employees	24-5066
	Self-directed accounts (IRAs, Keoghs); contributions must be made 1 year before filing	12-2740(16)
	State employees	3-476
	Teachers	16-1946
	Other pensions	12-2740(19)(J)
personal property	Appliances, furnishings, goods, clothing, books, crops, animals, musical instruments to \$2,500 total	12-2740(5)
	Bank deposits to \$700	12-2740(15)
	Cow, 2 goats, 10 sheep, 10 chickens, & feed to last 1 winter; 3 swarms of bees plus honey; 5 tons coal or 500 gal. heating oil, 10 cords of firewood; 500 gal. bottled gas; growing crops to \$5,000; yoke of oxen or steers, plow & ox yoke; 2 horses with harnesses, halters, & chains	12-2740(6),(9)-(14)
	Health aids	12-2740(17)

	Jewelry to \$500; wedding ring unlimited	12-2740(3),(4)
	Motor vehicles to \$2,500	12-2740(1)
	Personal injury, lost future earnings, wrongful death recoveries for you or person you depended on	12-2740(19)(F), (G),(I)
	Stove, heating unit, refrigerator, freezer, water heater, & sewing machines	12-2740(8)
public benefits	Aid to blind, aged, disabled; general assistance	33-124
	Crime victims' compensation needed for support	12-2740(19)(E)
	Social Security needed for support	12-2740(19)(A)
	Unemployment compensation	21-1367
	Veterans' benefits needed for support	12-2740(19)(B)
	Workers' compensation	21-681
tools of trade	Books & tools of trade to \$5,000	12-2740(2)
wages	Minimum 75% of weekly disposable earnings or 30 times the federal minimum hourly wage, whichever is greater; bankruptcy judge may authorize more for low-income debtors	12-3170
	Entire wages, if you received welfare during 2 months before filing	12-3170
wild card	Unused exemptions for motor vehicle, tools of trade, jewelry, household furniture, appliances, clothing, & crops to \$7,000	12-2740(7)
	\$400 of any property	12-2740(7)

Virginia

Federal Bankruptcy Exemptions not available. All law references are to Code of Virginia unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	\$5,000 plus \$500 per dependent; rents & profits; sale proceeds exempt to \$5,000 (husband & wife may double, unused portion of homestead may be applied to any personal property)	<i>Cheeseman v. Nachman</i> , 656 F.2d 60 (4th Cir. 1981); 34-4; 34-18; 34-20
	May include mobile home	<i>In re Goad</i> , 161 B.R. 161 (W.D. Va. 1993)
	Must file homestead declaration before filing for bankruptcy	34-6
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re Bunker</i> , 312 F.3d 145 (4th Cir., 2002)
	Surviving spouse may claim \$10,000; if no surviving spouse, minor children may claim exemption	64.1-151.3
insurance	Accident or sickness benefits	38.2-3406
	Burial society benefits	38.2-4021
	Cooperative life insurance benefits	38.2-3811
	Fraternal benefit society benefits	38.2-4118
	Group life or accident insurance for government officials	51.1-510
	Group life insurance policy or proceeds	38.2-3339
	Industrial sick benefits	38.2-3549
	Life insurance proceeds	38.2-3122
miscellaneous	Property of business partnership	50-73.108
pensions <i>see also wages</i>	City, town, & county employees	51.1-802
	ERISA-qualified benefits to \$17,500	34-34
	Judges	51.1-300
	State employees	51.1-124.4(A)
	State police officers	51.1-200

personal property	Bible	34-26(1)
	Burial plot	34-26(3)
	Clothing to \$1,000	34-26(4)
	Family portraits & heirlooms to \$5,000 total	34-26(2)
	Health aids	34-26(6)
	Household furnishings to \$5,000	34-26(4a)
	Motor vehicle to \$2,000	34-26(8)
	Personal injury causes of action & recoveries	34-28.1
	Pets	34-26(5)
public benefits	Wedding and engagement rings	34-26(1a)
	Aid to blind, aged, disabled; general relief	63.1-88
	Crime victims' compensation unless seeking to discharge debt for treatment of injury incurred during crime	19.2-368.12
	Unemployment compensation	60.2-600
tools of trade	Workers' compensation	65.2-531
	For farmer, pair of horses, or mules with gear; one wagon or cart, one tractor to \$3,000; 2 plows & wedges; one drag, harvest cradle, pitchfork, rake; fertilizer to \$1,000	34-27
	Tools, books, and instruments of trade, including motor vehicles, to \$10,000, needed in your occupation or education	34-26(7)
	Uniforms, arms, equipment of military member	44-96
wages	Minimum 75% of weekly disposable earnings or 30 times the federal minimum hourly wage, whichever is greater; bankruptcy judge may authorize more for low-income debtors	34-29
wild card	Unused portion of homestead or personal property exemption	34-13
	\$2,000 of any property for disabled veterans	34-4.1

Washington

Federal Bankruptcy Exemptions available. All law references are to Revised Code of Washington Annotated.

ASSET	EXEMPTION	LAW
homestead	Real property or mobile home to \$40,000; unimproved property intended for residence to \$15,000 (husband and wife may not double)	6.13.010; 6.13.030
	Must record homestead declaration before sale of home if property unimproved or home unoccupied	6.15.040
insurance	Annuity contract proceeds to \$250 per month	48.18.430
	Disability proceeds, avails, or benefits	48.36A.180
	Group life insurance policy or proceeds	48.18.420
	Life insurance proceeds or avails if beneficiary is not the insured	48.18.410
pensions	City employees	41.28.200; 41.44.240
	ERISA-qualified benefits, IRAs, & Keoghs	6.15.020
	Judges	2.10.180; 2.12.090
	Law enforcement officials & firefighters	41.26.053
	Police officers	41.20.180
	Public & state employees	41.40.052
	State patrol officers	43.43.310
	Teachers	41.32.052
	Volunteer firefighters	41.24.240

personal property	Appliances, furniture, household goods, home & yard equipment to \$2,700 total for individual (\$5,400 for community)	6.15.010(3)(a)
	Books to \$1,500	6.15.010(2)
	Burial plots sold by nonprofit cemetery association	68.20.120
	Clothing, no more than \$1,000 in furs, jewelry, ornaments	6.15.010(1)
	Food & fuel for comfortable maintenance	6.15.010(3)(a)
	Fire insurance proceeds for lost, stolen, or destroyed exempt property	6.15.030
	Keepsakes & family pictures	6.15.010(2)
	Health aids prescribed	6.15.010(3)(e)
	Motor vehicle to \$2,500 total for individual (two vehicles to \$5,000 for community)	6.15.010(3)(c)
public benefits	Personal injury recoveries to \$16,150	6.15.010(3)(f)
	Child welfare	74.13.070
	Crime victims' compensation	7.68.070(10)
	General assistance	74.04.280
	Industrial insurance (workers' compensation)	51.32.040
	Old-age assistance	74.08.210
tools of trade	Unemployment compensation	50.40.020
	Commercial fishing license	75.28.011
	Farmer's trucks, stock, tools, seed, equipment, & supplies to \$5,000 total	6.15.010(4)(a)
	Library, office furniture, office equipment, & supplies of physician, surgeon, attorney, clergy, or other professional to \$5,000 total	6.15.010(4)(b)
	Tools & materials used in any other trade to \$5,000	6.15.010(4)(c)
wages	Minimum 75% of weekly disposable earnings or 30 times the federal minimum hourly wage, whichever is greater; bankruptcy judge may authorize more for low-income debtors	6.27.150
wild card	\$2,000 of any personal property (no more than \$200 in cash, bank deposits, bonds, stocks, & securities)	6.15.010(3)(b)

West Virginia

Federal Bankruptcy Exemptions not available. All law references are to West Virginia Code.

ASSET	EXEMPTION	LAW
homestead	Real or personal property used as residence to \$25,000; unused portion of homestead may be applied to any property (husband & wife may double)	38-10-4(a)
insurance	Fraternal benefit society benefits	33-23-21
	Group life insurance policy or proceeds	33-6-28
	Health or disability benefits	38-10-4(j)(3)
	Life insurance payments from policy for person you depended on, needed for support	38-10-4(k)(3)
	Unmatured life insurance contract, except credit insurance policy	38-10-4(g)
	Unmatured life insurance contract's accrued dividend, interest, or loan value to \$8,000, if debtor owns contract & insured is either debtor or a person on whom debtor is dependent	38-10-4(h)
miscellaneous	Alimony, child support needed for support	38-10-4(i)(4)
	Property of business partnership	47-8A-25
pensions	ERISA-qualified benefits, IRAs needed for support	38-10-4(j)(5)
	Public employees	5-10-46
	Teachers	18-7A-30
personal property	Animals, crops, clothing, appliances, books, household goods, furnishings, musical instruments to \$400 per item, \$8,000 total	38-10-4(c)
	Burial plot to \$15,000, in lieu of homestead	38-10-4(a)

	Health aids	38-10-4(i)
	Jewelry to \$1,000	38-10-4(d)
	Lost earnings payments needed for support	38-10-4(k)(5)
	Motor vehicle to \$2,400	38-10-4(b)
	Personal injury recoveries to \$15,000	38-10-4(k)(4)
	Prepaid higher education tuition trust fund and savings plan payments	38-10-4(k)(6)
	Wrongful death recoveries for person you depended on, needed for support	38-10-4(k)(2)
public benefits	Aid to blind, aged, disabled; general assistance	9-5-1
	Crime victims' compensation	38-10-4(k)(1)
	Social Security	38-10-4(i)(1)
	Unemployment compensation	38-10-4(i)(1)
	Veterans' benefits	38-10-4(i)(2)
	Workers' compensation	23-4-18
tools of trade	Implements, books, & tools of trade to \$1,500	38-10-4(f)
wages	Minimum 30 times the federal minimum hourly wage per week; bankruptcy judge may authorize more for low-income debtors	38-5A-3
wild card	\$800 plus unused portion of homestead or burial exemption, of any property	38-10-4(e)

Wisconsin

Federal Bankruptcy Exemptions available. All law references are to Wisconsin Statutes Annotated.

ASSET	EXEMPTION	LAW
homestead	Property you occupy or intend to occupy to \$40,000; sale proceeds exempt for 2 years if you intend to purchase another home [husband & wife's exemption may not exceed \$40,000]	815.20
insurance	Federal disability insurance	815.18(3)(ds)
	Fraternal benefit society benefits	614.96
	Life insurance proceeds held in trust by insurer, if clause prohibits proceeds from being used to pay beneficiary's creditors	632.42
	Life insurance proceeds for someone debtor depended on, needed for support	815.18(3)(i)(a)
	Unmatured life insurance contract (except credit insurance contract) if debtor owns contract & insured is debtor or dependents, or someone debtor is dependent on	815.18(3)(f)
	Unmatured life insurance contract's accrued dividends, interest, or loan value to \$4,000 total, if debtor owns contract & insured is debtor or dependents, or someone debtor is dependent on	815.18(3)(f)
miscellaneous	Alimony, child support needed for support	815.18(3)(c)
	Property of business partnership	178.21(3)(c)
pensions	Certain municipal employees	62.63(4)
	Firefighters, police officers who worked in city with population over 100,000	815.18(3)(ef)
	Military pensions	815.18(3)(n)
	Private or public retirement benefits	815.18(3)(j)
	Public employees	40.08(1)
personal property	Burial plot, tombstone, coffin (husband & wife may double)	815.18(3)(a)
	College savings account or tuition trust fund	14.64(7); 14.63(8)
	Deposit accounts to \$1,000	815.18(3)(k)
	Fire & casualty proceeds for destroyed exempt property for 2 years from receiving	815.18(3)(e)
	Household goods and furnishings, clothing, keepsakes, jewelry, appliances, books, musical instruments, firearms, sporting goods, animals, and other tangible personal property to \$5,000 total (husband & wife may double)	815.18(3)(d)
	Lost future earnings recoveries, needed for support	815.18(3)(i)(d)

	Motor vehicles to \$1,200 (husband & wife may double; unused portion of \$5,000 personal property exemption may be added)	815.18(3)(g)
	Personal injury recoveries to \$25,000	815.18(3)(i)(c)
	Tenant's lease or stock interest in housing co-op, to homestead amount	182.004(6)
	Wages used to purchase savings bonds	20.921(1)(e)
	Wrongful death recoveries, needed for support	815.18(3)(i)(b)
public benefits	Crime victims' compensation	949.07
	Social services payments	49.96
	Unemployment compensation	108.13
	Veterans' benefits	45.35(8)(b)
	Workers' compensation	102.27
tools of trade	Equipment, inventory, farm products, books, and tools of trade to \$7,500 total	815.18(3)(b)
wages	75% of weekly net income or 30 times the greater of the federal or state minimum hourly wage; bankruptcy judge may authorize more for low-income debtors	815.18(3)(h)
wild card	None	

Wyoming

Federal Bankruptcy Exemptions not available. All law references are to Wyoming Statutes Annotated unless otherwise noted.

ASSET	EXEMPTION	LAW
homestead	Real property you occupy to \$10,000 or house trailer you occupy to \$6,000 (joint owners may double)	1-20-101; 102; 104
	Spouse or child of deceased owner may claim homestead exemption	1-20-103
	Property held as tenancy by the entirety may be exempt against debts owed by only one spouse	<i>In re Anselmi</i> , 52 B.R. 479 (D. Wyo. 1985)
insurance	Annuity contract proceeds to \$350 per month	26-15-132
	Disability benefits if clause prohibits proceeds from being used to pay beneficiary's creditors	26-15-130
	Fraternal benefit society benefits	26-29-218
	Group life or disability policy or proceeds, cash surrender & loan values, premiums waived, and dividends	26-15-131
	Individual life insurance policy proceeds, cash surrender & loan values, premiums waived, and dividends	26-15-129
	Life insurance proceeds held by insurer, if clause prohibits proceeds from being used to pay beneficiary's creditors	26-15-133
miscellaneous	Liquor licenses & malt beverage permits	12-4-604
pensions	Criminal investigators, highway officers	9-3-620
	Firefighters' death benefits	15-5-209
	Game & fish wardens	9-3-620
	Police officers	15-5-313(c)
	Private or public retirement funds & accounts	1-20-110
	Public employees	9-3-426
personal property	Bedding, furniture, household articles, & food to \$2,000 per person in the home	1-20-106(a)(iii)
	Bible, schoolbooks, & pictures	1-20-106(a)(i)
	Burial plot	1-20-106(a)(ii)
	Clothing & wedding rings to \$1,000	1-20-105
	Motor vehicle to \$2,400	1-20-106(a)(iv)
	Prepaid funeral contracts	26-32-102

public benefits	Crime victims' compensation	1-40-113
	General assistance	42-2-113(b)
	Unemployment compensation	27-3-319
	Workers' compensation	27-14-702
tools of trade	Library & implements of profession to \$2,000 or tools, motor vehicle, implements, team & stock in trade to \$2,000	1-20-106(b)
wages	Earnings of National Guard members	19-9-401
	Minimum 75% of disposable weekly earnings or 30 times the federal hourly minimum wage, whichever is more	1-15-511
	Wages of inmates on work release	7-16-308
wild card	None	

Federal Bankruptcy Exemptions

Married couples may double all exemptions. All references are to 11 U.S.C. § 522. These exemptions were last adjusted in 2001. Every three years ending on April 1, these amounts will be adjusted to reflect changes in the Consumer Price Index. Debtors in the following states may select the Federal Bankruptcy Exemptions:

Arkansas	Massachusetts	New Jersey	Texas
Connecticut	Michigan	New Mexico	Vermont
District of Columbia	Minnesota	Pennsylvania	Washington
Hawaii	New Hampshire	Rhode Island	Wisconsin

ASSET	EXEMPTION	SUBSECTION
homestead	Real property, including co-op or mobile home, to \$17,425; unused portion of homestead to \$8,725 may be applied to any property	(d)(1)
insurance	Disability, illness, or unemployment benefits	(d)(10)(C)
	Life insurance payments for person you depended on, needed for support	(d)(11)(C)
	Life insurance policy with loan value, in accrued dividends or interest, to \$9,300	(d)(8)
	Unmatured life insurance contract, except credit insurance policy	(d)(7)
miscellaneous	Alimony, child support needed for support	(d)(10)(D)
pensions	ERISA-qualified benefits needed for support; may include IRAs	(d)(10)(E); <i>Carmichael v. Osherow</i> , 100 F.3d 375 (5th Cir. 1996)
personal property	Animals, crops, clothing, appliances, books, furnishings, household goods, musical instruments to \$450 per item, \$9,300 total	(d)(3)
	Health aids	(d)(9)
	Jewelry to \$1,150	(d)(4)
	Lost earnings payments	(d)(11)(E)
	Motor vehicle to \$2,775	(d)(2)
	Personal injury recoveries to \$17,425 (not to include pain & suffering or pecuniary loss)	(d)(11)(D)
	Wrongful death recoveries for person you depended on	(d)(11)(B)
public benefits	Crime victims' compensation	(d)(11)(A)
	Public assistance	(d)(10)(A)
	Social Security	(d)(10)(A)
	Unemployment compensation	(d)(10)(A)
	Veterans' benefits	(d)(10)(A)
tools of trade	Implements, books, & tools of trade to \$1,750	(d)(6)
wages	None	
wild card	\$925 of any property	(d)(5)
	\$8,725 less any amount of homestead exemption claimed, of any property	(d)(5)

Federal Nonbankruptcy Exemptions

These exemptions are available only if you select your state exemptions. You may use them for any exemptions in addition to those allowed by your state, but they cannot be claimed if you file using federal bankruptcy exemptions. All law references are to the United States Code.

ASSET	EXEMPTION	LAW
retirement	Civil service employees	5 § 8346
	Foreign Service employees	22 § 4060
	Military Medal of Honor roll pensions	38 § 1562(c)
	Military service employees	10 § 1440
	Railroad workers	45 § 231m
	Social Security	42 § 407
	Veterans' benefits	38 § 5301
survivor's benefits	Judges, U.S. court & judicial center directors, administrative assistants to U.S. Supreme Court Chief Justice	28 § 376
	Lighthouse workers	33 § 775
	Military service	10 § 1450
death & disability benefits	Government employees	5 § 8130
	Longshoremen & harbor workers	33 § 916
	War risk, hazard, death, or injury compensation	42 § 1717
miscellaneous	Indian lands or homestead sales or lease proceeds	25 § 410
	Klamath Indians tribe benefits for Indians residing in Oregon	25 §§ 543; 545
	Military deposits in savings accounts while on permanent duty outside U.S.	10 §§ 1035
	Military group life insurance	38 § 1970(g)
	Railroad workers' unemployment insurance	45 § 352(e)
	Seamen's clothing	46 § 11110
	Seamen's wages (while on a voyage) pursuant to a written contract	46 § 11109
	Minimum 75% of disposable weekly earnings or 30 times the federal minimum hourly wage, whichever is more; bankruptcy judge may authorize more for low-income debtors	15 § 1673



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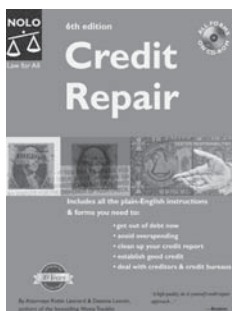
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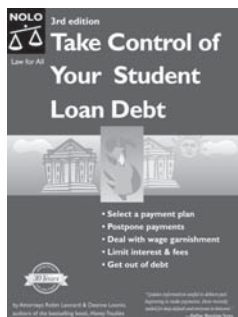
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Robin Leonard is the author of Nolo's *Chapter 13 Bankruptcy: Repay Your Debts*, *Money Troubles: Legal Strategies to Cope With Your Debts*, *Credit Repair*, and *Take Control of Your Student Loan Debt*. She is also co-author of *How to File for Chapter 7 Bankruptcy*, *A Legal Guide for Lesbian and Gay Couples*, and Nolo's *Pocket Guide to Family Law*.